HOUSE OF COMMONS
CANADA

HE FREE TRADE AREA OF THE AMERICAS:

TOWARDS A HEMISPHERIC AGREEMENT IN THE CANADIAN INTEREST

First Report of the Standing Committee on
Foreign Affairs and International Trade

First Report of the Sub-Committee on
International Trade, Trade Disputes and Investments

Bill Graham, M.P
Chair

Sarmite Bulte, M.P
Chair of the Sub-Committee

October 1999

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Publications Service

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THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND INTERNATIONAL TRADE

has the honour to present its

FIRST REPORT

In accordance with its mandate under Standing Order 108(1), your Committee established a Sub-Committee on International Trade, Trade Disputes and Investment and assigned it the responsibility of examining a Free Trade Area of the Americas (FTAA).

The Sub-Committee submitted its First Report to the Committee.

Your Committee adopted the Report which is as follows:

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CHAIR'S FOREWORD

In September 1998, the Honourable Sergio Marchi, Minister of International Trade, asked the Standing Committee on Foreign Affairs and International Trade to report to him on positions Canada should take in negotiating an agreement that would create a Free Trade Area of the Americas (FTAA). It was expected that this report would provide valuable parliamentary direction to Canadian negotiators prior to the Fifth Meeting of Trade Ministers of the hemisphere and the first negotiating round to be held in Toronto in November 1999. Given the formidable challenge already presented the Standing Committee in undertaking its study of the World Trade Organization and the Millennium Round of negotiations, while at the same time being intensively engaged in briefings on the military crisis in Kosovo, Yugoslavia, the Standing Committee took the earliest opportunity to refer the Minister's request to its Sub-Committee on International Trade, Trade Disputes and Investment.

In the time available, from March to June 1999, the Sub-Committee structured its hearings in a way that would enable it to hear from as many Canadians as possible, covering a wide range of public concerns from many and diverse perspectives. The Sub-Committee also held joint meetings with the Standing Committee when travelling across the country from Halifax to Vancouver. Apart from hearing from the public at large, the Sub-Committee organized round table meetings of experts to address and debate the principal stakes of an FTAA for Canada and to comment on key issues such as: its opportunities and challenges, social and economic development of the smaller economies of the Americas, the preservation of Canadian culture and hemispheric cultural diversity, labour standards and working conditions, the environment, agriculture, competition policy and a dispute settlement process. Written submissions, including letters, faxes and e-mail, were received from others in addition to the briefs presented by those appearing before the Sub-Committee.

In the end, 48 witnesses appeared before the Sub-Committee and 35 briefs and submissions were received. In addition, of the 394 witnesses who appeared before the joint meetings with the Standing Committee, many chose to address the question of the FTAA. Canadians clearly had things to say about the world's trading system as they cleverly articulated well-reasoned views and opinions. Perhaps the fact that Canada has been a country of traders since its inception explains why its citizens are well informed on matters of international trade and investment. Canadians also proved to be very knowledgeable on the more obvious implications of globalization, at least with respect to those factors that have revealed themselves to date, and are preparing for the opportunities and challenges it presents. This keen awareness combined with their general familiarity with the social and economic circumstances of Latin America and the Caribbean, the Committee thought, was particularly enlightening. The public was especially focused on four policy areas of social concern, including respect for human rights, the establishment of core labour rights and standards,

the conservation of the environment for future generations, and the preservation of Canadian culture and hemispheric cultural diversity. Much to the Committee's surprise, the views of Canadians on an FTAA were not as divergent as one might have expected and consensus on a wide variety of issues was within immediate grasp. This report, written after reconstituting the Standing Committee and the Sub-Committee in the second session of the 36th Parliament this fall, reflects this in-depth knowledge and advice of Canadians, embracing political support for specific actions on issues of public concern.

At this time I would like to thank Dan Shaw of the Parliamentary Research Branch of the Library of Parliament for organizing and planning our study, his tireless research work and the preparation of this report. The report also benefited from the able research assistance of Daniel Dupras, Jean-Denis Fréchette, Gerald Schmitz and Kevin Kerr, all of whom are from the Parliamentary Research Branch. I would like to express my gratitude to Christopher Maule for both his research work and his professional counsel. Many thanks are extended to Janice Hilchie, Christine Fisher and their staff for organizing the many productive meetings and travel of the Standing Committee and Sub-Committee, as well as for their professional contributions in finalizing this report.

Finally, on behalf of the Standing Committee, I would like to thank the public who participated in our extensive hearings process and for sharing their insights with us. I think that the public would agree that this report reflects their concerns and contributes to our common Canadian values and priorities in an evolving trading system within the hemisphere.

PREFACE

The increasing economic and political integration and interdependence of countries, largely achieved by way of growing cross-border trade in goods and services and international capital movements under the banner of globalization, has irreversibly drawn national economies closer. In this vein, it is often heralded that the technological revolution in transportation, communications and information processing, which is at the core of the globalization process, has broadened the economic stage upon which firms compete from that of the nation-state to the globe. Understandably, a nation of traders like Canada, which is the largest per capita international trader of the G7 countries, views such developments with much trepidation. Canadians are, almost on a daily basis, being bombarded with claims that in such an environment "footloose" capital will, with the prospects of economic growth and jobs hanging in the balance, arbitrage differences in domestic public policies to the lowest common denominator in a so-called "race to the bottom." The ensuing ominous forecasts of the demise of expensive public programs meant to redress domestic inequities, of impotency in preserving the natural state of the environment for future generations, and of the loss of sovereignty on a number of domestic political fronts, most notably in the ability to conduct independent fiscal and monetary policies, whether correct or not, make for a stark backdrop on which to hang a public policy hat of complacency and in favour of the status quo.

Drawing on events and decision making of the recent past, Canada — as individuals, as business leaders and as political representatives of its citizens — has assessed this situation and concluded that both the opportunities and challenges that globalization presents require some modifications to the game plan. Perhaps our proximity and familiarity with the large and competitive American economy explains why Canada has been in the vanguard of public policy shifts favouring market liberalization through the reduction of trade barriers and the withdrawal of intensive government involvement in, or, if you will, the regulation of, its economy. Coupled with these economic strategies is the preference for a rules-based, rather than a power-based, managed order of the international trading system. As a middle-sized open economy, Canada fares much better under this type of governance regime.

Such a conclusion depends, of course, on "getting the rules right." However, "getting the rules right" begs a few important questions. As the Standing Committee emphatically stated in its ninth Report, entitled *Canada and the Future of the World Trade Organization: Advancing a Millennium Agenda in the Public Interest*, who makes and enforces the rules, how, and for whose benefit are valid questions deserving satisfactory answers. While as much as a decade or two ago trade rules were about tariffs and trade only, they are today in the name of "national treatment" intruding into matters that have traditionally been regarded as strictly domestic policy. Trade courts, bolstered by new powers of sanction granted in the Uruguay Round of the General Agreement on Tariffs and Trade, are scrutinizing domestic laws and regulations for discriminatory non-tariff trade barriers and, with unprecedented frequency, are forcing their redesign. Indeed, this encroachment has been so

profound and pervasive that some people, including Canada's Trade Minister, are now claiming that trade policy is domestic policy. What is patently clear from all the turmoil created is that the boundary between domestic policy and trade policy is no longer clearly delineated and the uncertainty arising therefrom has forced some amount of second guessing on the part of many domestic policy-makers, national and sub-national alike.

Obviously, as trade policy matters extend further into the domestic policy sphere and have impacts on local affairs, it is imperative that broader consultation and participation of the public at various stages in the decision-making process be undertaken. Beyond the obvious reasons of advancing democratic principles, the engagement of society at large is needed to obtain input in designing sustainable public policy responses to the challenges of globalization that are also consistent with our commitments made under the rules-based trading system that Canada has worked so hard to establish. Better coordination in overall public policy-making is also likely to follow from such a process. As the Honourable Sergio Marchi, former Minister for International Trade, stated to the Committee: "Canadians want their international institutions, as well as their own governments, to be more open, more accountable, and not less. ... [W]e need to be more inclusive. We need to build a stronger consensus on issues that affect our people so directly." [88:920]

It is in this spirit that this Committee is conducting a parliamentary review of the negotiation of an FTAA agreement. As it was with its review of the proposed Multilateral Agreement on Investment and the upcoming issues of the Millennium Round of negotiations at the World Trade Organization, this Committee, as your elected representatives, intends to provide clear guidance to the Government of Canada and its negotiators. The objective here is to assist our trade officials in achieving a result that serves Canada's best interests, doing so through an open and democractic process that can be broadly supported by Canadians. The Committee also wishes to make it known that this is not a final report; it is a first report in what is expected to be an ongoing parliamentary review of an FTAA until the final deadline for concluding such an agreement in 2005 is reached.

Recommendation No. 1

That the Minister of International Trade encourage and again, at the Ministerial Meeting to be held in Toronto in November 1999, urge his colleagues of the Americas to actively engage civil society in their respective countries in a meaningful consultation process.

Recommendation No. 2

That the Government of Canada continue its practice of informing and consulting the provinces on issues relating to liberalization of trade within the Americas, and involve them in the negotiation procedure where it is desirable to do so, to protect their interests in their spheres of jurisdiction, while protecting the interests of the Canadian federation as a whole.

Recommendation No. 3

That the Government of Canada examine the mandate and mission of the Pan American Health Organization, the Inter-American Development Bank and the United Nations Economic Commission for Latin America and the Caribbean, including their abilities to carry out their assigned duties and responsibilities relating to the five objectives set out in the Summit of the Americas Plan of Action with respect to eradicating poverty and discrimination in the hemisphere.

Recommendation No. 4

That the Government of Canada, in preparing positions for negotiating a Free Trade Area of the Americas agreement, assess their impacts on human rights, seeking to ensure that there are no conflicts with Canada's international human rights obligations or with measures to protect and progressively realize rights which are affirmed under international law. The Government of Canada should also encourage its negotiating partners to do the same and take advantage of these negotiations as a way of advancing respect for human rights throughout the Americas.

Recommendation No. 5

That the Government of Canada increase its efforts in promoting Canada's voluntary business ethics codes and the Organization for Economic Co-operation and Development's Anti-Bribery Convention.

Recommendation No. 6

That the Government of Canada continue its proactive leadership role in moving the negotiations of a Free Trade Area of the Americas agreement forward.

Recommendation No. 7

That the Government of Canada make it eminently clear to all negotiating parties that Canada attaches great importance to the resolution of business facilitation issues.

Recommendation No. 8

That the Government of Canada instruct its negotiating officials to work with the FTAA Consultative Group on Smaller Economies to first identify a clear and workable definition of a small economy. That the Government of Canada debate financial and other resource assistance to small economies, appropriately defined, for the negotiation and implementation, including matters relating to dispute settlement, of a Free Trade Area of the Americas agreement.

Recommendation No. 9

That the Government of Canada maintain its current position that a Free Trade Area of the Americas agreement is a single undertaking, whereby signatories must accept all and not just parts of its negotiated terms. That this agreement include negotiated concessions to small economies.

Recommendation No. 10

That the Government of Canada work to build up the presence of the International Labour Organization in the hemispheric initiative and continue to promote labour standards throughout the Americas.

Recommendation No. 11

That the Government of Canada seek to ensure that adequate national environmental standards and norms established in applicable international

agreements are respected throughout the Americas. That the Government of Canada, in negotiating the terms of the Free Trade Area of the Americas agreement, work towards clarifying the rules to uphold obligations under multilateral environmental agreements and provide for better multilateral disciplines governing trade-related environmental and health measures.

Recommendation No. 12

That the Government of Canada seek to ensure that trade officials have access to the most up-to-date scientific environmental data.

Recommendation No. 13

That the Government of Canada ensure that the rules governing a Free Trade Area of the Americas agreement do not in any way impair the Government's sovereign right to regulate in the public interest.

Recommendation No. 14

That the Government of Canada preserve Canada's cultural identity through the continuation of its present cultural exemption policies while working to establish a new international instrument on culture along the lines contained in the Cultural SAGIT Report, if feasible within the World Trade Organization framework, and to seek alliances amongst the nations of the Americas for achieving this instrument.

Recommendation No. 15

That the Government of Canada establish an appropriate base year upon which to commence reductions on all industrial product tariffs for each signatory of the Free Trade Area of the Americas agreement and that this date maximize Canadian interests.

Recommendation No. 16

That the Government of Canada seek a maximum 10-year timeframe in which to phase out all tariffs imposed on all industrial products originating in Free Trade Area of the Americas signatory countries and that it show the flexibility necessary to obtain accelerated tariff reductions whenever possible.

Recommendation No. 17

That the Government of Canada aggressively pursue refinements in the procedures of anti-dumping measures at the multilateral level with the view to improving them.

Recommendation No. 18

That the Government of Canada seek to establish a subsidy and countervail measures framework at the multilateral level.

Recommendation No. 19

That the Government of Canada seek to establish a Free Trade Area of the Americas agreement that incorporates rules on technical barriers to trade that are consistent with our international obligations.

Recommendation No. 20

That the Government of Canada seek to establish a Free Trade Area of the Americas agreement that incorporates safeguards consistent with the standards established in the North American Free Trade Agreement.

Recommendation No. 21

That the Government of Canada negotiate broader trade liberalization in agricultural products in the context of the World Trade Organization and seek to obtain more concessions, more quickly, in the context of the Free Trade Area of the Americas.

Recommendation No. 22

That the Government of Canada focus Canada's priority interests in the services export markets, bearing in mind the importance of the Americas.

Recommendation No. 23

That the Government of Canada focus negotiations on services of the Free Trade Area of the Americas agreement on broadening and deepening the scope of commitments of most-favoured nation and national treatment beyond that obtained in the General Agreement on Trade in Services, perhaps taking a sectoral approach.

Recommendation No. 24

That the Government of Canada's position regarding government procurement and the Free Trade Area of the Americas be similar to that adopted in the Government Procurement Agreement. A Free Trade Area of the Americas agreement on government procurement should be plurilateral and cover the broadest possible range of goods and services (including construction). In addition, a Free Trade Area of the Americas agreement on government procurement should provide for periodic review to have it broadened and strengthened.

Recommendation No. 25

In view of the concerns arising from the interpretation of 'expropriation' in the investor-state provisions of the North American Free Trade Agreement (Chapter 11), the Government of Canada should ensure the incorporation of a narrowly-defined concept of expropriation in any negotiations on investment in the Free Trade Area of the Americas agreement.

Recommendation No. 26

That the Government of Canada seek a Free Trade Area of the Americas agreement that includes investment provisions modelled on Canada's current Foreign Investment Protection Agreements with Latin American and Caribbean countries.

Recommendation No. 27

That the Government of Canada continue its consultations with the parties concerned so that its position on intellectual property represents the interests of all Canadians. That this policy be defended in the Free Trade Area of the Americas negotiations.

Recommendation No. 28

That the Government of Canada: (a) encourage the introduction of competition policy and law regimes with strong enforcement provisions of these laws by countries of the Americas that do not presently have them; (b) resist those parties to a Free Trade Area of the Americas agreement who would have anti-dumping provisions merged with predatory pricing provisions of competition policy and law; (c) consider the desirability of a competition policy review process that would, at a minimum, provide routine oversight and report on a member country's competition policy and

its competition authority's enforcement record in matters of procedural fairness and transparency; and (d) provide for periodic review to have competition policies broadened and strengthened.

Recommendation No. 29

That the Government of Canada adopt the position that the dispute settlement mechanism of the Free Trade Area of the Americas be based on World Trade Organization principles, including emphasis on the implementation of a panel finding, compensation and retaliation.

INTRODUCTION

Overview

In the advent of the Canada-United States Free Trade Agreement and Congressional approval to pursue bilateral free trade with Mexico, which would eventually culminate in the North American Free Trade Agreement, former U.S. President George Bush proposed his *Enterprise for the Americas Initiative (1990)*. This initiative, which proposed to extend free trade from Alaska to Tierra del Fuego, was favourably received throughout Latin America, but it would take another four years before the Western Hemisphere would act upon it. At the first modern day Summit of the Americas, held in Miami, U.S. in 1994, the Heads of State and Government of 34 countries of the Western Hemisphere met to pursue their mutual interest in the advancement of economic prosperity, democracy and security of the Americas. The Summit's Declarations would, among other things, include free trade, rebaptising the initiative the Free Trade Area of the Americas (FTAA). In 1998, at the second Summit of the Americas, held in Santiago, Chile, the leaders of the Americas launched the negotiations and soon after the Government of Canada charged this Committee with the task of reporting to it on the positions that Canada should take in them.

Only a very tiny minority of 800 million people in the Americas ... have heard and understand the whole process and the concept behind the FTAA. We need to have the time, the space, and the resources ... so that an informed public can help government actually shape what is best for all our societies. [*Eleanor Douglas, 27:1640*]

This is the third Report on international trade and investment that the Committee has produced on behalf of Parliament and its citizens for the Minister of International Trade's consideration in the past three years. In completing these reports, the Committee was asked to discharge one overriding duty. In light of the revolutionary technological developments in telecommunications and the adoption of market liberalization policies across the world, both of which favour increasing global market integration, Canada faces the ever-present challenge of balancing three legitimate political-economic objectives: (1) guarding our national sovereignty; (2) maintaining public management of the domestic economy; and (3) achieving greater international economic integration.

The pursuit of these three objectives is not mutually exclusive. The Committee has come to realize that improvements in any two of these objectives, whichever favoured, can be obtained only at the cost of sacrificing some measure of the third. Experts in the international relations field have since coined this social choice problem as the "economic integration trilemma." Accordingly, if one favours national sovereignty and a discretionary macroeconomic stabilization policy, as do ultra-nationalists and some protectionists, one could advance both these objectives at the price of foregoing the wealth arising from further international economic integration. If, instead, one favours international economic integration and national sovereignty, as do many conservative political-economists, they can be obtained if prepared to sacrifice some traditional economic levers in the conduct of discretionary macroeconomic policy. Finally, if one favours unfettered international economic integration and discretionary macroeconomic management of the economy, as do ultra-internationalists, one could further these objectives if willing to do away with some measure of direct political accountability.

The Committee, in fact, encountered Canadians who would fit well into one of these three camps, as well as many situated somewhere in the middle of this political-economic terrain. From the Committee's perspective, the balance to be struck did not get any easier this time. As with its previous two reports dealing with international trade and investment, the Committee advocates a modest move towards greater international economic integration, but this time at the regional level of the Western Hemisphere, while maintaining public management of domestic economic activity. Any loss in national sovereignty arising from this choice, the Committee believes, will be marginal. Alternative political-economic instruments that do not violate national treatment and most-favoured nation (MFN) principle commitments of international treaties, although likely to be somewhat less effective than the ones they replace, can mitigate such losses. Given our relatively small domestic market, which does not always permit our nationally based companies to fully exploit extant economies of scale in production, we believe this course best manages the political-economic opportunities and challenges placed before Canada and its citizens. The Committee, therefore, favours the negotiation of an agreement that would create a Free Trade Area of the Americas (FTAA), given the satisfactory fulfilment of the conditions set out in its 29 recommendations.

The Plan

This Report on an FTAA is divided into three parts: Canada and the Americas; The Social Dimensions of Free Trade in the Americas; and The Negotiating Issues, Priorities and Strategies. They are followed by the Committee's conclusions which have been drawn on all three facets of the economic integration contemplated. The Report also contains eight appendices: two dealing with the contentious issues of reconciling the forces of globalization and regionalism and Latin American and Caribbean readiness for free trade; two providing background information on the *Declaration of Principles* of the Summit of the Americas and a procedural road map to the FTAA; and, finally, four providing the standard report documentation — that is, the lists of acronyms and glossary, witnesses appearing before the Sub-Committee and the Standing Committee, and submissions received by, the Committee. For those readers who have not kept abreast of economic developments in Latin

America and the Caribbean or the Summit of the Americas and FTAA initiatives, it is suggested that these appendices should be reviewed before attempting to go through this Report.

Canada and the Americas

Part I of this Report provides background information on the Americas, highlighting the economic integration taken so far by the people and national governments of the hemisphere. Beginning with a very brief review of Canadian relations with the Americas dating back to our colonial days, Chapter 1 takes us up to the present while providing a detailed snapshot of current trade and investment levels between Canada and the Americas, most notably with Latin America and the Caribbean. Chapter 2 profiles the economies of the Americas in terms of their relative sizes and social diversity, while focusing on the various sub-regional trade pacts. This perspective culminates in a discussion of the economic benefit than an FTAA agreement would bring to the Western Hemisphere.

The Social Dimensions of Free Trade in the Americas

Part II of the Report addresses the social dimensions of free trade. Beginning with a review of the role of the FTAA in the context of the Summit of the Americas process, Chapter 3 evaluates the efforts and progress made on two of the three non-prosperity objectives of the hemisphere — eradicating poverty and fostering democratic values (deferring the third, promoting sustainable development, to a later chapter) — as well as defining the role and extent of civil society and provincial involvement in the trade discussions. Chapter 4 presents the opportunities and challenges of an FTAA for Canada and the Americas as a whole, most notably tackling contentious business facilitation or customs administration issues, the lack of U.S. Congressional fast-track negotiating authority and apparent Brazilian intrasigence to an FTAA, the disparity in economic size and development of the countries comprising the Americas, and the potential for a financial crisis to strike between now and the FTAA implementation period. Chapter 5 broaches the unique feature of an FTAA, that being the extraordinary circumstances of small economies of the Americas that already benefit from preferential access to North American markets while, at the same time, being relatively dependent on tariffs for government revenue and on just a few export commodities to afford their import needs. Chapters 6 and 7, in turn, deal with concerns relating to the impact of the FTAA on jobs and labour conditions in the first instance, and sustainable development and the environment in the second. Chapter 8 focuses on the controversial issue of culture and cultural diversity within the hemisphere and addresses how best to preserve this aspect of the Americas from a Canadian perspective. Committee recommendations on the social issues of an FTAA are largely found in this part of the Report.

The Negotiating Issues, Priorities and Strategies

Part III advances the negotiating issues, priorities and strategies of the FTAA from a Canadian perspective. Chapter 9 tackles the pivotal market access issues, which include tariffs, anti-dumping, subsidies and countervail, technical barriers to trade and safeguards. As a preferential trade deal,

tariffs will eventually be zero for all signatory members of the FTAA. However, modest improvements in commitments regarding non-tariff barriers are advocated. Chapter 10 deals with the ever-controversial agricultural sector, including the recent trend to use sanitary and phytosanitary measures as trade barriers. While treading slowly at the World Trade Organization (WTO) is the dominant strategy advocated by industry organizations, the FTAA clearly provides selective opportunities for freer trade in agricultural goods that should not be passed up. Chapters 11 and 12 review the current status of commercial services and government procurement policies, respectively, in terms of existing trade commitments, suggesting room for broader coverage and greater integration into the trade agenda. Chapters 13 through 15 consider the new trade issues as they have been called: investment, intellectual property rights and competition policy. The incorporation of these economic factors into the trade deal is suggested. Drawing on experiences with the North American Free Trade Agreement (NAFTA) and the WTO, Chapter 16 offers guidance on important issues in the design of an effective dispute settlement process for the FTAA. Committee recommendations on the more technical negotiating issues of an FTAA are found in this part of the Report.

Conclusion

The conclusion addresses the negotiations of an FTAA in terms of the objectives, timing and structure, and Canada's interests, priorities and strategies. Generally speaking, Canada should target its priorities.

PART I: CANADA AND THE AMERICAS

CHAPTER 1:
CANADA-AMERICAS FOREIGN AND TRADE RELATIONS

History of our Relations with the Americas

Canada's relationship with the United States is already widely known and well understood — so much so that the Committee need not go into much detail here. By way of a summary, however, our common Anglo-Saxon history and proximity to each other mean that we share the English language, similar traditions, cultures and institutions. This closeness has resulted in, and enables us to boast of, partaking in the longest undefended border of the world; we trade more with each other than do any two other countries of the world (two-way trade amounting to US$309.3 billion in 1997); we invest more in each other's country than do any two other countries of the world (cross-border direct investment holdings of more than $273.4 billion in 1998); and, finally, Americans hold the most, while Canadians hold the second most, number of work visas or temporary work permits issued by the other country of any nationality. In summary, Canada and the United States are the most integrated national economies of the world.

There has been a significant change [...] in Canadian attitudes towards the hemisphere. Many more Canadians are now travelling more than ever in the region than in the past. Spanish is the foreign language most in demand in Canadian universities [...] [P]eople-to-people contacts have been growing exponentially. In a very real way, [...] this hemisphere has become our region. We are feeling much more at home here than [...] in the past. [George Haynal, 25:1540]

The Committee feels compelled to provide something more than a statistical overview of our relations with Latin America and the Caribbean, which are not widely known. While formal relations between Canada and Latin America at this time are both cordial and relatively formative, Canada's relations with the Caribbean are more developed — neighbourly and longstanding. Canada has enjoyed considerable trade with the Caribbean, particularly with those nations belonging to the British Commonwealth, dating back to our colonial days. These relations have grown to include the establishment of religious missions (Presbyterian Church of Canada); close banking relations as early as upon this country's confederation; and extensive tourist relations, including the construction and financing of tourist resorts, and immigration and educational transfers to Canada beginning in the 1950s.

More specifically, Atlantic Canada took part in what has become to be known in early Canadian history as the triangular trade between Great Britain, British North America and the British West Indies. This trade featured Canadian exports of fish, lumber and other staples to both Commonwealth sites in return for, amongst other goods, sugar, molasses and rum from the West Indies throughout the eighteenth and nineteenth centuries. Indeed, this trade was subject to one of our very first disputes with the United States, relating to whether or not its carriage should be reserved for British and colonial shipping. At that time, British and colonial monopoly over two of the three legs of this trade was being leveraged to obtain a monopoly over the third (between North America and the West Indies) by denying American access to British West Indies ports. The Americans, in turn, imposed retaliatory duties on the cargos of British vessels arriving from these very same ports. The end result, after 12 years of tit-for-tat retaliatory actions, was the repeal of all such legislation in 1830 and the establishment of free trade in shipping. A fitting result in view of what the hemisphere is now contemplating.

Since these early days, Canada has extended preferential access to its markets for selective Caribbean exports. In 1898, Canada reduced its tariffs by 25% on a number of products, including raw and refined sugar, but in several subsequent conferences the preferential rate was increased to 33.33% and the list of products receiving preferential treatment was also expanded. These efforts eventually culminated in the CARIBCAN, which since 1986 has provided tariff-free access on a very broad range of goods from the Caribbean, including agricultural products (but not supply management products, textiles, clothing, leather garments, footwear, lubricating oils – i.e. products that would effectively compete with import-sensitive domestic production). The Canadian International Development Agency and Canada's presence on multilateral fora, such as the Caribbean Development Bank and the Inter-American Development Bank, along with our financial contributions also form part of our longstanding economic relations with the Caribbean.

Canada's relations with Latin America, on the other hand, are not so extensive (both in breadth and depth) and can at best be described as having been a low priority — at worst as much neglected — until the 1990s; after which, the opposite is more true. Since the 1960s, the Quebec, Alberta and Ontario governments have established a number of bureaus in Latin America in support of their commercial relations. Indeed, the Quebec government has gone much further in extending these relations to include political, social and cultural dimensions. Cultural ties between "Latin Quebec" and "Hispanic America" include four Quebec offices in the region and numerous inter-governmental agreements and programs that embrace scientific and inter-university cooperation. Quebec has, therefore, been successful in attracting students from Latin America to study its province's universities.

However, the most significant catalyst for commercial engagement was the end of the cold war between East and West, which saw Canada shift its policy attention from national security to international economic issues, most notably trade. One of the first decisions Canada made at this time was to join the Organization of American States (OAS), a post-World War II institution created in 1948. From its inception until Canada joined in 1990, the OAS had largely been dormant on

important hemispheric policy issues as Latin American tradition would not have any supra-national institution infringe on what was considered matters of national sovereignty. But this was about to change.

As reported by the House of Commons Standing Committee on External Affairs and National Defence in 1982, this Committee's forerunner, if made effective, the OAS could become an indispensible regional organization for hemispheric policy formulation and coordination.[1] It could also serve as an important instrument of Canadian foreign and trade policy with Latin America. Accordingly, Canada's move from observer to full member status, at a time when Latin American countries were, in general, reforming their trade policies from protective import-substitution to free trade and customs union strategies, saw the OAS emerge as an important source of political governance in the region — much as it was originally designed.

Canada made its presence known from the very start and, in effect, breathed new life into the OAS by leading the efforts for the establishment of the Unit for the Promotion of Democracy (UPD), which has been assigned the tasks of monitoring elections and strengthening democratic institutions and principles. The UPD, at last count, had been called on four times this decade (Haiti, Peru, Guatemala and Paraguay) to help resolve tense situations that, when using the recent past as a guide, had the potential to erupt into political and, possibly, military crises. This development can now with perfect hindsight be seen as a necessary precursor for the OAS to embark upon its current Summit of the Americas agenda that provides for, and improves upon, hemispheric governance, including its ambitious free trade initiative.

Furthermore, since the 1990s, Canadian companies have made significant investments in Latin American business ventures. Most notably, Canadian mining companies, such as Falconbridge, Placer Dome, Rio Algom, Cominco, Teck Corp. and Barick Gold Corp., have investments either underway or planned totalling more than US$7 billion in Chile. Beyond exploration activities (for copper and gold), these Canadian companies' production facilities are reported by the National Mining Society of Chile (SONAMI) to account for more than 40% of Chilean exports of mineral and metal products.

Canadian Trade and Investment with the Americas

Canada's trade in goods and services with the Americas is critical to its standard of living, amounting to US$322.3 billion in 1997 and representing more than 79% of our total trade with the world. However, most of this trade is with the United States (US$309.3 billion) as Canada's trade with Latin America and the Caribbean, totalling US$13 billion in 1997 and representing only 3.2% of our aggregate trade with the world (see Table 1.1), is modest at best. It is, nonetheless, growing at a tremendous pace. Since 1991, Canada's trade in goods and services with Latin America and the Caribbean has grown by 88.6% or, on average, by 9.5% per annum — faster than trade with the

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1 Final Report of the Standing Committee on External Affairs and National Defence, *Canada's Relations with Latin America and the Caribbean*, 78:21.

United States, (81.3%), where there has been a free trade agreement in force for more than a decade. The most significant Latin American and Caribbean markets for Canadian exports are Brazil (US$1 billion), Mexico (US$916 million) and Venezuela (US$621 million). In turn, Canada is a significant market for the exports of Mexico (US$5 billion), Brazil (US$940 million) and Venezuela (US$701 million).

Foreign direct investment (FDI) between Canada and the Americas is also substantial. In terms of stocks abroad, Canada had investments in the Americas amounting to $169.5 billion in 1997, representing more than 70% of its total outward FDI ($239.8 billion). While the United States again dominates this relationship, Latin America and the Caribbean were the destination for $43.5 billion of these investments, accounting for a 18.2% share. More specifically, Barbados ($14.3 billion), The Bahamas ($6.1 billion) and Bermuda ($4.7 billion) are ranked third, fifth and sixth, respectively, amongst Canada's largest recipient countries of FDI.

Canada also depends on considerable FDI from the Americas, amounting to $150.6 billion and representing about 70% of a total of $217.1 billion invested from abroad in Canada. The United States accounts for the lion's share, $147.3 billion, while Latin American and Caribbean investments of $3.2 billion amount to only a 1.5% share.

Table 1.1
Canada-Americas Trade in Goods and Services 1991-97
and Stock of Foreign Direct Investment 1990-98

Countries and Regions	International Trade in Goods and Services (U.S.$ millions)				Foreign Direct Investment Stock (Cdn.$ millions)			
	Exports		Imports		Inward		Outward	
	1991	1997	1991	1997	1990	1998	1990	1998
United States	95,574	177,317	75,025	131,948	84,089	147,345	60,049	126,005
Mexico	386	916	2,131	4,968	-13	464	245	2,246
NAFTA	**95,960**	**178,233**	**77,156**	**136,916**	**84,076**	**147,809**	**60,293**	**128,251**
CACM	57	120	178	307	--	--	--	91
Andean	593	1,162	718	1,140	3	-6	78	2,575
NERCOSUR	569	1,299	784	1,157	152	349	1,821	5,066
Panama	17	23	12	26	118	97	23	160
Chile	128	255	314	234	--	--	285	4,221
Latin America†	**1,750**	**3,775**	**4,137**	**7,852**	**268**	**887**	**8,359**	**15,479**
CARICOM	221	208	250	395	143	144	3,403	20,529
Other Caribbean‡	223	381	303	370	1,543	2,198	2,370	7,240
Caribbean	**444**	**589**	**553**	**765**	**1,686**	**2,342**	**5,773**	**27,769**
Americas§	**97,798**	**181,712**	**79,715**	**140,545**	**86,043**	**150,574**	**68,409**	**169,523**
World	**126,160**	**213,020**	**120,452**	**195,463**	**130,932**	**217,053**	**98,402**	**239,754**

-- not available
§ Includes trade with Falklands and St. Pierre et Miquelon
† Includes Mexico, CACM, Andean, MERCOSUR, Chile and Panama
‡ May include smaller CARICOM countries.
Source: International Monetary Fund, *Direction of Trade Statistics Yearbook.*

Trade and investment between Canada and the Americas is largely supported by bilateral trade and investment protection agreements. Canada is party to three free trade agreements with selective countries of the region: the Canada-United States Free Trade Agreement since 1988, the North American Free Trade Agreement (NAFTA) since 1994, which includes the United States and Mexico, and the Canada-Chile Free Trade Agreement (CCFTA) since 1997. Canada has also, since 1998, signed two non-legally binding Trade and Investment Cooperation Arrangements (TICAs) with the MERCOSUR and the Andean Community, as well as a Memorandum of Understanding on Trade and Investment (MOUTI) with Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. Finally, Canada has signed 8 reciprocal foreign investment protection agreements (FIPAs) with countries within the Americas region, not including the investment chapter of the NAFTA and the CCFTA, and is in various stages of negotiating 13 other reciprocal FIPAs (see Exhibit 1.1). FIPAs, or bilateral investment treaties (BITs) as they are called elsewhere, are designed to promote foreign investment through lowering the political risks undertaken by foreign investors. FIPAs extend, among other things, national treatment status to foreign investors in the host country, eliminate capital restrictions and profit remittances requirements, and provide for the arbitration of disputes.

Exhibit 1.1
Canada's Foreign Investment Protection Agreements with Latin America and the Caribbean

Country	Situation
Old FIPA Model (OECD-based)	
Argentina	In force since April 29, 1993
New FIPA Model (NAFTA-based)	
Trinidad & Tobago	In force since April 10, 1996
Barbados	In force since January 17, 1997
Ecuador	In force since June 6, 1997
Venezuela	In force since January 1, 1998
Panama	In force since February 13, 1998
El Salvador	In force since June 4, 1999
Uruguay	Signed October 29, 1997 (soon to be in force)
Peru	Initialed December 7, 1994 (soon to be signed)
Costa Rica	Initialed January 7, 1997 (soon to be signed)
Argentina, The Bahamas, Brazil, Colombia, Cuba, Dominican Republic, Guyana, Guatemala, Honduras, Jamaica and Nicaragua	Under negotiation

Source: Foreign Affairs and International Trade Canada Agreement.

CHAPTER 2:
THE ECONOMIES OF THE AMERICAS

A Socio-Economic Profile of the Americas

The Americas comprise a population of more than 800 million people and an economy approaching US$11 trillion as measured by the combined annual gross domestic product (GDP) of its 50 constituent countries and territories (see Table 2.1). With slightly less than 15% of the world's population, the hemisphere conducts more than 35% of the world's measured economic activity. So, from a regional perspective, the Americas is by far the largest and most productive economic region of the world, surpassing the European Union (EU), the second leading region, by more than US$3 trillion.[2]

Political and economic changes have been the basis to rethink old integration ... The older integration efforts, such as the Central American Common Market, the ... CARICOM, and the Andean Pact ... have been revitalized and combined with more recent developments such as MERCOSUR, established in 1991, and of course the North American Free Trade Agreement in 1994. The result ... has been a significant increase in intra-regional trade. ... The improvements ... of these regional trading groups ... provide a strong foundation on which to build something as ambitious ... as a free trade area of the Americas. [Stephen Randall, 125:840]

Collectively, the countries and territories of the Americas exported US$1.2 trillion worth of merchandise goods and commercial services in 1997, representing an 18.2% share of world exports. They, in turn, imported US$1.4 trillion in goods and services in the same period, attaining a 20.7% share of world imports. Apart from being a net importer of goods and services, this performance suggests that the Americas is under-represented in international trade relative to its overall economic activity when compared to other regions. But this is largely because the Western Hemisphere's two dominant powerhouses, the United States and Brazil, have large domestic economies, with trade accounting for less than 10% of their GDPs. All other countries of the Americas can be characterized as small to mid-sized open economies, with international trade averaging more than 25% of their combined GDP in 1997. In fact, Canadian, Central American or Caribbean trade accounts for

2 The EU, however, is a common market and has constructed fewer institutional barriers to commerce between member countries than have most regional and sub-regional free trade areas, including the NAFTA, MERCOSUR, Andean Community, CACM and the CARICOM (see the glossary for the relevant regional definitions). As such, labour and capital move more freely within the EU and supra-national political and economic institutions, covering and coordinating a broader spectrum of trade and commercial issues, also supplement existing national institutions.

approximately 40% of their respective GDPs, thereby greatly out-performing the world average of 23% in the same year. The countries of the Americas have thus shown both the capacity and willingness to participate, if not lead the way in international trade.

Table 2.1
Western Hemisphere
Selective Economic Data — 1997

Countries	Population	GDP	GDP per capita	Merchandise Goods & Commercial Services		Foreign Direct Investment	
				Exports	Imports	Inflows	Outflows
	(millions)	(US$ millions)	(US$)	(US$ million)			
United States	265.9	8,082,000	30,395	692,700	891,400	90,748	114,537
Canada	30.0	611,594	20,380	221,000	197,000	8,246	12,974
Mexico	95.6	409,200	4,280	109,048	110,064	12,101	1,037
NAFTA	**391.5**	**9,102,794**	**23,250**	**1,022,748**	**1,198,464**	**111,095**	**128,548**
Brazil	157.0	758,400	4,831	52,878	62,811	16,330	1,569
Argentina	35.1	322,100	9,177	24,981	27,911	6,327	28
Uruguay	3.2	20,000	6,250	2,580	3,480	200	5
Paraguay	4.9	9,998	2,040	3,000	4,400	200	—
MERCOSUR	**200.2**	**1,110,498**	**5,547**	**83,439**	**98,602**	**23,057**	**1,602**
Colombia	37.3	97,300	2,609	11,818	13,837	2,447	100
Venezuela	21.8	90,800	4,165	22,956	12,102	4,893	547
Peru	24.4	64,600	2,648	6,650	9,821	2,000	20
Ecuador	11.7	20,300	1,735	5,036	3,992	577	—
Bolivia	8.3	8,200	988	1,123	1,867	500	2
Andean	**103.5**	**281,200**	**2,717**	**47,583**	**41,619**	**10,417**	**669**
Chile	14.4	80,200	5,569	17,312	19,810	5,417	1,949
Guatemala	10.9	17,700	1,624	2,356	3,595	130	—
El Salvador	5.9	11,400	1,932	2,368	3,704	41	—
Costa rica	3.5	9,300	2,657	3,240	4,017	500	4
Honduras	6.1	4,600	754	1,818	1,839	80	—
Nicaragua	4.6	2,000	435	790	1,392	92	—
CACM	**31.0**	**45,000**	**1,452**	**10,572**	**14,547**	**843**	**4**
CARICOM	**6.5**	**22,122**	**3,426**	**10,302**	**15,702**	**934**	**444**
Other Western Hemisphere	**34.3**	**83,850**	**2,442**	**38,198**	**45,335**	**934**	**3,383**
Western Hemisphere	**814.3**	**10,724,298**	**13,171**	**1,230,022**	**1,431,953**	**155,165**	**136,638**
World	**5,754.0**	**28,583,721**	**4,968**	**6,775,000**	**6,925,900**	**400,486**	**423,666**

— not available
Sources: *Americas Review 1998*; World Bank, *World Development Indicators 1998* and *World Investment Report 1998*; World Trade Organization, *Annual Report 1998: International Trade Statistics 1998*; International Monetary Fund, *Direction of Trade Statistics Yearbook 1998*.

The Americas also attracted US$155.2 billion in foreign direct investment (FDI), representing a 38.7% share of the world's FDI inflows in 1997. They similarly made direct investments in other countries valued by the market at US$136.6 billion and accounting for 32.2% of the world's FDI

outflows.[3] While again being a net importer, the Western Hemisphere's FDI activity level relative to its GDP is very much in line with the rest of the world.

These economic statistics are indeed impressive, but differences in the countries of the Americas go beyond their relative openness to trade and their status as net exporters or importers of goods, services and direct capital investment. Behind this aggregate data are 50 quite different and complex societies. They differ in terms of history, geography, population, ethnicity, language, religious beliefs, economic status and political structure. For example, consider the Western Hemisphere's geography which encompasses many small island nations such as Bermuda, comprising a territory of only 55 square kilometres in the Caribbean Basin, and large continental countries such as Canada, spanning 10 million square kilometres of the Northern Hemisphere. Consider resident populations that range from 2,000 inhabitants in the Falklands to 266 million in the United States. Now consider these facts in combination. Average population densities vary from as few as 3 people per square kilometre in Guyana to 1,240 in Bermuda; and urbanization accounts for as little as 32% of the population in Haiti and for as much as 88% in Argentina. When it comes to the official languages of these countries, there are six: English, Spanish, Portuguese, French, Quechua and Creole. Average annual incomes per capita of these nations can vary almost hundredfold from US$399 in Haiti to US$30,395 in the United States knowing full well that these averages themselves mask yet more personal income dispersion within these countries.[4] Finally, from a political perspective, this hemisphere boasts almost as many territorial possessions of European countries (United Kingdom, France and The Netherlands) and the United States as there are independently chartered countries.[5] What is striking here is that the former are, in some cases, administered as an overseas government department and the latter are, by constitution, governed by democratically elected legislatures. Of course, Cuba remains the only non-democratic country in the hemisphere today and, therefore, since 1961 has had its membership in the Organization of American States suspended.

Economic Integration within the Americas

Despite these striking differences in socio-economic circumstances, it would be misleading to conclude that the 50 economies of the Americas operate entirely independent of each other. There is plenty of evidence of economic integration within the hemisphere, even between the historically, culturally and ethnically distinct regions of Latin America, the Caribbean and North America. The Committee will establish this fact in terms of merchandise trade and direct investment, but the kind of economic integration lacking is in terms of institutional measures facilitating labour mobility,

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3 These figures include FDI originating from, and destined for, elsewhere in the Americas.

4 The sources of this data are listed with Table 2.1.

5 United Kingdom territories include Anguilla, British Virgin Islands, Cayman Islands, Falklands, Monserrat and Turks & Caicos; French territories include French Guiana, Guadeloupe, Martinique and St. Pierre et Miquelon; Netherlands territories include Aruba and the Netherland Antilles; the associated states of the United States of America include Puerto Rico and the U.S. Virgin Islands.

specifically those classified as specialized and therefore relatively more scarce, the harmonization of fiscal and monetary policies, and the development of supra-national administrative and coordinating institutions (i.e. competition authority, industrial policy, etc.).

> [W]ithin Europe there are institutions that allow for the formation of some kind of collective opinion. We don't have any such institutions within NAFTA, let alone within the hemisphere. In other words, what you're looking at in Europe is what we basically call a common market. ... What we have under NAFTA is a free trade agreement, plus it does not provide for any common decision-making institutions. What it provides for is a range of mechanisms for the resolution of disputes. And there is an enormous difference. ... There was mention earlier of a common currency ..., but this would provoke enormous debate. We don't have amongst our three countries common external tariffs. In other words, although goods move back and forth under NAFTA, we each have separate tariffs, for example, on automobiles imported from outside North America. We have different tariffs on a wide range of things. The concept of even establishing a common external tariff would provoke an enormous outcry with respect to loss of sovereignty, let alone anything as dramatic as formulating a common position for the WTO. [Maureen Molot, 27:1725]

Underpinning the economic integration taken so far are 7 (sub)regional free trade agreements, 4 customs unions, and 14 countries have signed scope-limited bilateral free and preferential trade agreements (see Exhibit 2.1).

Exhibit 2.1
Trade Agreements in the Americas

<table>
<tr>
<td>Multilateral Agreements:

WTO/GATT/GAT</td>
<td rowspan="2">Free Trade Agreements:

NAFTA: Canada, Mexico and the United States

Group of Three: Colombia, Mexico and Venezuela

Bolivia-Mexico
Canada-Chile
Central America-Dominican Republic
Costa Rica-Mexico
Chile-Mexico</td>
<td rowspan="2">Bilateral Agreements:

• Economic Complementation
• Free and Preferential Trade
• Partial Scope

Signed by:

Bolivia
Chile
Colombia
Costa Rica
Dominican Republic
Ecuador
El Salvador
Guatemala
Honduras
Mexico
Nicaragua
Panama
Peru
Venezuela</td>
</tr>
<tr>
<td>Regional Scope Agreements:

LAIA/ALADI</td>
</tr>
<tr>
<td>General Association and Cooperative Agreements:

Association of Caribbean States
Third Declaration of Tuxtla
Canada-MERCOSUR Trade & Investment Cooperation
Canada-Andean Community Trade & Investment Cooperation Agreement</td>
<td>Temporary Non-Reciprocal Agreements:

CARICOM-Colombia
CARICOM-Venezuela</td>
<td>Custom Unions:

Andean Community
CARICOM
CACM
MERCOSUR</td>
</tr>
</table>

Source: Free Trade Area of the Americas Website.

At this juncture, it would be fruitful to take stock of the trade and investment integration already existing within the Americas. In this regard, Table 2.2 provides a snapshot of intra- and inter-(sub)regional, west hemispheric and world exports of merchandise goods and commercial services originating in the Americas in 1997. Although one would naturally expect intra-(sub)regional trade to dominate inter-(sub)regional trade because of proximity, this is only true for the NAFTA and MERCOSUR (sub)regions; it is not true for the Andean Community, CARICOM and CACM subregions. The latter three trade groups export more to the NAFTA countries than to their free trade partners.

Table 2.2
The Americas: Direction of International Trade — 1997

Origin \ Destination	NAFTA	Mercado Comun der Sur	Andean	CACM	Caricom	Other Americas	Americas	Others	World
	US$ millions								
NAFTA	**496,783**	25,774	18,348	8,686	5,317	14,375	**569,283**	441,749	**1,011,032**
MERCOSUR	13,421	**20,985**	3,917	199	236	3,734	**42,492**	40,097	**82,589**
Andean	23,433	1,987	**5,103**	864	1,790	4,459	**37,636**	13,116	**50,752**
CACM	8,035	8	101	**1,737**	57	313	**10,251**	3,105	**13,356**
CARICOM	2,797	26	139	26	**982**	221	**4,191**	2,715	**6,906**
Other Americas	5,123	1,933	1,228	581	320	**3,756**	**12,941**	13,227	**26,168**
Americas	**549,592**	**50,713**	**28,836**	**12,093**	**8,702**	**26,858**	**676,794**	**514,009**	**1,190,803**
	%								
NAFTA	**49.1**	2.5	1.8	0.9	0.5	1.4	**56.3**	43.7	**100.0**
MERCOSUR	16.3	**25.4**	4.7	0.2	0.3	4.5	**51.4**	48.6	**100.0**
Andean	46.2	3.9	**10.1**	1.7	3.5	8.8	**74.2**	25.8	**100.0**
CACM	60.2	0.1	0.8	**13.0**	0.4	2.3	**76.8**	23.2	**100.0**
CARICOM	40.5	0.4	2.0	0.4	**14.2**	3.2	**60.7**	39.3	**100.0**
Other Americas	19.6	7.4	4.7	2.2	1.2	**14.4**	**49.5**	50.5	**100.0**
Americas	**46.2**	**4.3**	**2.4**	**1.0**	**0.7**	**2.3**	**56.8**	**43.2**	**100.0**

Source: International Monetary Fund, *Direction of Trade Statistics Yearbook*, 1998.

Upon further inspection, one immediately observes that the United States is the largest market for the exports of all but eight countries of the Americas.[6] Apparently, wealth dominates proximity and a legal trade agreement as a determinant of trade volumes within the Americas. Brazil, nevertheless, is the single largest market for its MERCOSUR partners, while Canada is the largest export market for goods and services from the United States and Guyana. So the existing trading relationships within the hemisphere, which are akin to hub-and-spoke trade network whereby the United States is the primary hub and Brazil is a secondary hub in the trade of goods, are large both in absolute and relative world terms and would be considered by most as supportive of a free trade initiative in the Americas.

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6 The United States is, nevertheless, the second largest export market for most of these countries, which include Antigua & Barbuda, Argentina, Cuba, Grenada, Guyana, Paraguay, St. Vincent & the Grenadines, and Uruguay

Table 2.3
Intro-Sub-Regional Exports Within the Americas

West Hemisphere Regions	1990	1991	1992	1993	1994	1995	1996	1997
	US$ millions							
NAFTA	239,600	249,474	273,695	301,531	352,335	394,472	437,804	496,783
MERCOSUR	4,127	5,103	7,220	10,066	12,048	14,199	17,077	20,985
Andean Community	1,325	1,769	2,209	2,917	3,752	4,754	4,799	5,103
CACM	671	780	973	1,089	1,175	1,365	1,565	1,737
CARICOM	396	341	325	413	173	223	835	982
	%							
NAFTA	41.4	40.6	43.6	45.6	48.0	46.2	47.6	49.1
MERCOSUR	8.9	11.1	14.0	18.5	19.2	18.5	22.7	25.4
Andean Community	3.8	35.5	7.3	9.4	10.1	11.8	10.4	10.1
CACM	11.3	13.1	15.9	12.1	11.5	13.2	15.7	13.0
CARICOM	12.3	11.1	11.2	14.0	14.0	16.0	12.2	14.2

Source: International Monetary Fund, *Diretion of Trade Statistics Yearbook*, 1998; United Nations, *Handbook of International Trade and Development Statistics*, 1995.

Furthermore, Table 2.3 reveals that, regardless of the fact that the United States may be the largest export market for virtually every country in the Americas, each (sub)regional trade pact has seen their members' intra-trade performance bolstered in the 1990s. For example, the NAFTA has more than doubled its intra-regional trade between 1990-97, while both the CARICOM and the CACM have more than tripled their intra-sub-regional trade in this period. The Andean Community and MERCOSUR have respectively quadrupled and quintupled their intra-sub-regional trade in the 1990s. Since the overall economic output of these countries and sub-regions did not match their trade performances, it would, therefore, be fair to conclude that the trade deals struck so far have played some positive role in raising intra-(sub)regional demand for goods and services within the Americas. However, one cannot unequivocally claim that the positive intra-(sub)regional trade performance, in absolute or relative terms, was the result of trade creation rather than trade diversion.[7] This is particularly true for the MERCOSUR, Andean Community, CACM and CARICOM whose weak intra-trade relationships from the outset suggest that they are not natural trade blocs. Despite their similar histories and ethnicities, this economic fact suggests that these regional groupings may have a difficult time realizing their aspirations of a common market. In any event, this debate could largely be put to rest with the formation of a Free Trade Area of the Americas (FTAA), as it would

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7 Trade creation is defined as the overall amount of trade generated by the removal of trade impediments, such as a tariff, enabling trade to shift from high- to low-cost sources irrespective of regional status. Trade diversion, on the other hand, is defined as the amount of trade that would shift from low-cost sources outside the free trade region to higher cost sources within the region due only to preferential access through exemption from tariff and non-tariff barriers they would otherwise face. Regional trade agrements (RTAs) are by definition discriminatory and are, therefore, a violation of the most-favoured nation (MFN) trade principle. Consequently, without any evidence of a relative improvement in total factor productivity of these export industries and data on the importance of transportation costs relative to delivered costs within and between regions, we cannot definitively conclude that world economic welfare has improved, but has merely been redistributed, as a result of the formation of these RTAs.

reconfigure trading patterns more along efficiency lines and thus reduce the amount of trade diversion within the hemisphere, but not between hemispheres, resulting from these preferential regional agreements (see Appendix 1).

Table 2.4
Foreign Direct Investment Stocks and Flows

Countries	FDI Stocks 1997		FDI Inflows 1996		FDI Outflows 1996	
	Inward US$ millions	Outward US$ millions	US$ millions	% of GFCF	US$ millions	% of GFCF
United States	720,793	907,497	76,453	7.0%	74,833	6.9%
Canada	137,113	137,715	6,398	6.2%	8,585	8.2%
Mexico	86.836	3,282	8,169	14.2%	-319	-0.6%
NAFTA	**944,742**	**1,048,494**	**91,020**		**83,099**	
Brazil	126,281	8,730	11,112	7.5%	-77	-0.1%
Argentina	36,070	908	5,090	9.7%	205	0.4%
Uruguay	1,923	1	169	7.6%	5	0.2%
Paraguay	1,521	30	225	10.4%	—	—
MERCOSUR	**165,795**	**9,669**	**16,596**		**133**	
Colombia	13,701	3,427	1,833	17.6%	238	2.3%
Venezuela	11,752	1,320	3,322	22.2%	68	0.5%
Peru	11,058	161	3,581	25.7%	10	0.1%
Ecuador	4,202	—	447	13.7%	—	—
Bolivia	2,563	20	474	39.8%	2	0.2%
Andean	**43,276**	**4,928**	**13,891**		**318**	
Chile	25.056	5,797	4,092	23.8%	1,079	6.3%
Guatemala	3,701	74	410	24.7%	4	0.3%
El Salvador	2,397	—	18	3.7%	—	—
Costa Rica	737	—	63	6.4%	—	—
Honduras	447	—	85	18.4%	—	—
Nicaragua	359	—	25	1.5%	—	—
CACM	**7,641**	**74**	**601**	**—**	**4**	**—**
CARICOM	**9,654**	**1,716**	**730**	**—**	**9**	**—**
Other Western Hempisphere	**38,009**	**10,422**	**3,753**	**—**	**1,046**	**—**
Western Hemisphere	**1,226,532**	**1,081,100**	**130,683**	**5.6%**	**85,691**	**5.5**
World	**3,455,509**	**3,541,384**	**337,550**	**—**	**333,629**	**—**

— not available
Sources: United Nations, *World Investment Report 1998: Trends and Determinants*, 1998.

Table 2.1 indicated that FDI inflows and outflows in the Americas amounted to US$155.2 billion and US$136.6 billion, respectively, in 1997. Table 2.4, on the other hand, indicates that FDI inward and outward stocks totalled US$1.2 trillion and US$1.1 trillion in 1997,

representing a 35% and 31% world share, respectively.[8] However, it is probably more meaningful to consider this investment activity, not in absolute terms or relative to other regions, but relative to a country's gross fixed capital formation (GFCF). In this way, one can assess the extent to which foreign investors are integrating into the host economy, as well as measure their contribution relative to their domestic counterparts. As the selective figures in Table 2.4 suggest, FDI inflows and outflows represent between 6% and 8% of North America's GFCF, but respectively average 11.4% and 0.6% of GFCF in Latin America and the Caribbean. Moreover, annual FDI inflows in some Caribbean countries can represent up to 53% of their GFCF in the year, whereas they can represent as much as 40% in selective countries of Latin America as it did in 1996 in Dominica and Bolivia, respectively. North America also distinguishes itself as a net source or exporter of FDI flows, whereas Latin America and the Caribbean are net destinations or importers. The above-noted hub-and-spoke trade network is, therefore, complemented by a very similar network of investment; only this time Canada replaces Brazil as a secondary hub.

The FTAA initiative, which would include 34 countries of the Americas, therefore proposes to reinforce and enhance the economic integration taken so far by expanding the rules-based order of a trade agreement, such as provided by existing (sub)regional agreements, under a more inclusive plurilateral or hemispheric format.[9] Given the greater commercial certainty that a trade and investment agreement provides to private sector decision makers compared to that of political bargaining, in which the largest economy has the advantage, a legal free trade agreement could eventually transform this hemisphere into a bonafide regional trade bloc.[10] Such a trade bloc would be the largest of its kind in the world and would be unique in that it would include a greater number and diversity of economies, most notably in terms of size and development.

When it comes to forging a free trade agreement, which would be helpful in cementing a trade bloc, the disparity in wealth and development between North America and Latin America and the Caribbean need not be an insurmountable barrier. Indeed, the disparity of wealth is at best a double-edged sword and the Committee will have more to say on this issue in Chapters 4 and 5. For the time being, the Committee wishes to emphasize that no one should be left with the impression that, with such a legal agreement in place, there would be a general convergence over time to a single homogeneous economy of the Americas as would be more characteristic of a common market union.

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8 In this description, the Committee omits, but does not wish to understate, the importance of portfolio capital in bringing the real interest rate for a given debt risk in line with the world and for facilitating a convergence of price-earnings ratios and thereby levelling the playing field between rival companies' cost of capital. The Committee, however, feels that it makes little sense to point to ties between countries by way of a highly mobile and anonymous source of capital, such as portfolio capital (sometimes referred to as flight capital). Direct investment, on the other hand, is not perfectly substitutable between regions because multinational firms have command over different products, processes and distribution networks.

9 The existing quilted patchwork of international trade and investment agreements in the Americas both provide and impose differential reciprocal rights and obligations.

10 The trade rules emerging from negotiations often reflect the priorities and preferences of the larger countries as they have more bargaining power. This situation can sometimes be disadvantageous to the smaller countries. However, the fact that the latter sign on to a rules-based regime can be taken as evidence of a more preferable arrangement to that of political bargaining.

Greater trade and investment between the Americas should be viewed, not as supporting a confluence of societies, but as promoting greater economic integration and welfare while, at the same time, allowing for their respective domestic economic policies and non-economic distinctions to flourish.

PART II: THE SOCIAL DIMENSIONS OF FREE TRADE IN THE AMERICAS

CHAPTER 3:
THE SUMMIT OF THE AMERICAS

The Summit of the Americas Process

Given that for the first time in history the Americas became a community of democratic societies, the Heads of State and Government of the region met in Miami, Florida, in December 1994 to pursue their mutual interest in the advancement of economic prosperity, democracy and security of the Western Hemisphere. At what has since become known as the first modern day Summit of the Americas, the democratically elected leaders of 34 countries of the Organization of American States (OAS) put forth a *Declaration of Principles* on fundamental social issues of the hemisphere (see Appendix 3). The four principles advanced were to:

1. Preserve and Strengthen the Community of Democracies of the Americas;
2. Promote Prosperity Through Economic Integration and Free Trade;
3. Eradicate Poverty and Discrimination in Our Hemisphere; and
4. Guarantee Sustainable Development and Conserve Our Natural Environment for Future Generations.

During the first two Summits of the Americas, ... the goal of the economic integration of the ... hemisphere was to increase the standard of living..., to improve the working conditions for every-one and to protect the environment better. ... The hemisphere adopted [a] 23-point ... plan to ensure tangible progress, not only on stimulating trade, but also fostering democracy, human rights, health, education, etc. Despite the comprehensive framework, ... econonic integration and free trade dominated over all other issues. ... [C]oncrete results from the social development commitments are much harder to find. Gauri Screenivasan, 27:1620

These 34 countries further backed up this joint declaration with a commitment to a *Plan of Action*, which envisions 23 objectives that would contribute to the pursuit of the four basic principles (see Box 3.1). In fact, their governments are currently engaged in numerous general undertakings, either in the negotiation, planning or early implementation stage, on each of these specific objectives. The Committee also understands that these objectives are being sought in different fora, based on their relevant competencies, with timetables for completion that are compatible with the region's common interest. Consequently, the free trade goal is being pursued by the Free Trade Area of the Americas (FTAA) process as organized within the OAS and comprising three key administrative components: (1) Trade Ministers of the Western Hemisphere; (2) Vice Ministers of Trade of the Western Hemisphere; and

(3) 12 Working Groups, which were subsequently transformed into nine Negotiating Groups. Health and education objectives are being worked out by the Pan American Health Organization (PAHO); environment and sustainable development issues are being pursued by the Unit for Sustainable Development and Environment; and the Unit for the Promotion of Democracy (UPD) has already experienced success with four interventions in defence of democracy to date, while the OAS Secretariat of Legal Affairs is engaged in providing better administration of justice. Finally, the Summit Implementation Review Group was created to monitor progress on the pursuit and attainment of these social objectives.

Box 3.1
Summit of the Americas Plan of Action: Principles and Objectives

1. **Preserve and Strengthen the Community of Democracies of the Americas requires:**
   - (1) Strengthening Democracy
   - (2) Promoting and Protecting Human Rights
   - (3) Invigorating Society/Community Participation
   - (4) Promoting Cultural Values
   - (5) Combating Corruption
   - (6) Combating the Problem of Illegal Drugs and Related Crimes
   - (7) Eliminating the Threat of National and International Terrorism
   - (8) Building Mutual Confidence.
2. **Promote Prosperity Through Economic Integration and Free Trade requires:**
   - (9) Free Trade in the Americas
   - (10) Capital Markets Development and Liberalization
   - (11) Hemispheric Infrastructure
   - (12) Energy Cooperation
   - (13) Telecommunications and Information Infrastructure
   - (14) Cooperation in Science and Technology
   - (15) Tourism.
3. **Eradicate Poverty and Discrimination in Our Hemisphere requires:**
   - (16) Universal Access to Education
   - (17) Equitable Access to Basic Health Services
   - (18) Strengthening the Role of Women in Society
   - (19) Encouraging Microenterprises and Small Business
   - (20) White Helmets - Emergency and Development Corps.
4. **Guarantee Sustainable Development and Conserve Our Natural Environment for Future Generations requires:**
   - (21) Partnership for Sustainable Energy Use
   - (22) Partnership for Biodiversity
   - (23) Partnership for Pollution Prevention.

Source: The Free Trade Area of the Americas Website at www.ftaa-alca.org.

The Committee understands that, even though there may be no direct link between any two, these objectives can be complementary. For example, it is generally thought that the wealth created by free trade and greater capital market efficiency (resulting in part from the greater capital mobility across national borders) could lead to greater health service purchases and educational attainment in the developing regions of the Americas. This reallocation of activities could, in turn, have the effect of contributing to the principle of poverty eradication at least when measuring poverty in absolute rather than relative terms as will be established below. Furthermore, since wealth also appears to be positively correlated with a society's environmental expenditures and activities, the pursuit of economic prosperity through free trade may not only promote the economic component of sustainable development, but also its environmental component.

These issues are the topic of this Chapter. The following sections deal with two of the three non-prosperity objectives of the Summit of the Americas process, the eradication of poverty and promoting democratic principles, leaving the issue of the environment and sustainable development for Chapter 7. Next, however, we will broach the two remaining process issues relating to the role of civil society and the provinces in the FTAA initiative.

The Role of Civil Society in the FTAA

Canada has called for broad civil society participation in foreign policy development, particularly now that trade obligations are increasingly touching upon domestic policy matters. The FTAA process, largely at Canada's insistence, has such an engagement. An FTAA Civil Society Committee, situated in Washington, has been set up by the OAS which has invited people from across the hemisphere to submit their comments. That committee will consider these submissions and report to Ministers of Trade in November 1999.

Much as this may be, a number of officials from non-governmental organizations (NGOs) feel that the process, as presently set up, and in which they are participating, is not sufficiently transparent. It is unclear to some of them why an FTAA Civil Society Committee was created: Was it for organizational efficiency reasons? Or would this organizational filter enable the Ministers of Trade and their officials to indirectly screen out and cherry-pick amongst the comments and recommendations made from the outset, allowing them to side-step the more problematic issues of public concern? Moreover, this process, they claim, may not be effective because it appears to them that there will be no meaningful dialogue or consultation with decision-makers, negotiators or their officials. While most NGOs clearly understand that they cannot play a direct role in negotiating an FTAA, they are uncertain as to what contribution their efforts would bring.

> We also recognize that our trade minister, at the Costa Rican ministerial meeting in March 1998, encouraged colleagues in the region to set up a committee on civil society participation for the FTAA. However, what happened was not quite satisfactory. What happened was that a collection of suggestions came forward and they were collected in an office in Washington. This is what the NGOs have called the suggestion box; there was no real formal mechanism to discuss these kinds of suggestions. So we would urge Canada to make that process a consistent, permanent, and transparent one with colleagues in the region. [Eleanor Douglas, 27:1640]

The Committee also heard claims that a less than full-hearted effort was being put into embracing civil society participation, particularly in Latin America where it was suggested that officials are proceeding slowly as this process is expected to only amount to an open invitation for critics of governments and trade. The flip side of this coin, however, suggests that government officials have a genuine concern that some NGOs and special interest groups only represent themselves and that the negotiating process runs the risk of being hijacked by these groups who would only like to sour its environment if given the chance. The Committee was further advised to consider sovereignty and political culture issues on this matter.

> There is no question that issues of national sovereignty are critical to the larger process. There's also no question that we have very differing political cultures, and Latin America is not homogeneous. There is a wide range of civil society participation in different countries. ... I think we will see, by leaving each country to its own political traditions ... that each of those civil societies will work out their own dynamic within their own context. ... [W]e cannot force the Canadian political and civil society standard on other nations, and ours may not be the best model in any case. [Stephen Randall, 125:920]

In the interest of obtaining broad public input from across the Americas on matters of international trade and investment, the Committee recommends:

1. That the Minister of International Trade encourage and again, at the Ministerial Meeting to be held in Toronto in November 1999, urge his colleagues of the Americas to actively engage civil society in their respective countries in a meaningful consultation process.

In Canada, the Department of Foreign Affairs and International Trade (DFAIT) has called on the public to submit their comments on an FTAA; a notice in the *Canada Gazette* appeared in February 1999. DFAIT intends to organize these comments and make them available to the Minister and the relevant Canadian officials and negotiators of the FTAA. In addition, the Minister and his departmental officials have conducted informal meetings and discussions with various activist groups and will also sponsor a symposium on the FTAA to be held in November 1999 by various NGOs and its organizer, Common Frontiers.

Provincial Participation in the Implementation of the FTAA

In Canada, international treaties must be implemented in accordance with the division of legislative jurisdictions between the federal and provincial governments established in the Constitution of Canada. Where a treaty or an aspect of a treaty relates to an area under provincial jurisdiction, provincial participation is essential to adherence to the commitments under the treaty in question. Beyond a doubt, the best way of securing provincial cooperation is to involve them in the entire process of negotiating international agreements.

For now, the practice adopted by the Canadian government in this respect seems to meet the needs of the various components of the Canadian federation relatively well. The provinces are kept regularly informed of the progress of negotiations.

The Committee is aware that the Canadian negotiating team already includes a number of representatives of the various federal departments affected. The Government of Canada should agree with the provinces on a mechanism that would enable them to be kept fully informed of the content of the negotiations and offer them an opportunity to make their views known and to argue their interests within or to the negotiating team. The Committee recommends:

2. That the Government of Canada continue its practice of informing and consulting the provinces on issues relating to liberalization of trade within the Americas, and involve them in the negotiation procedure where it is desirable to do so, to protect their interests in their spheres of jurisdiction, while protecting the interests of the Canadian federation as a whole.

Wealth, Poverty and the FTAA

Trade is important to the prosperity and well-being of a nation and its citizens. All participants to the Summit of the Americas process widely acknowledge this fact and have committed their countries to negotiate greater economic integration within the hemisphere through the removal of a wide range of barriers to trade and investment. Friends and foes of free trade deals do not, in general, dispute the underlying premise of greater wealth arising from free trade. Although the foes dispute the well-being claim principally because more competitive economies linked by trade and investment, they assert, will force contractions in public policies and programs that will lower overall well-being. So such losses would presumably outweigh the wealth gains. Moreover, drawing from the Committee's hearings, opposition, in most cases of anti-free traders, and qualification, in some cases of pro-free traders, stem from the distribution of the wealth created. We are talking about the division and not the size of the economic pie. Only the most fervent of free trade advocates claim that free trade is universally beneficial to all members of society, while only the most indefatigable detractors assert that the wealth created by a policy of free trade remains solely in the hands of a few capitalists of export-oriented corporations and transnationals. The truth obviously lies somewhere between these polar opposites.

Providing an exact estimate on the values won and lost, and by whom, in an FTAA was not a part of the mandate of this Committee, even if such a calculation was at all feasible. However, as the Summit of the Americas process encompasses issues of poverty, the Committee is obliged to report on this aspect of wealth. Special attention must be paid to the wealth and poverty implications in this context because, unlike free trade between Canada and the United States, the smaller and developing economies of the Americas do not provide the same level of social benefits that may be needed to adequately compensate losers under a free trade regime. Some will likely fall beneath critical poverty thresholds.

In this regard, the Committee heard contradictory opinions on the impact of trade liberalization taken so far in Latin America. Some witnesses suggest a general improvement in wealth and a reduction in poverty throughout the region, while others maintain that the wealthy and middle class,

especially those closely tied to the export economy, are benefiting at the expense of the increasingly marginalized poor. What was particularly interesting to the Committee was the evidence provided by one researcher in the field who stated that when you look at the wealth and poverty puzzle from an absolute standard you find:

> Since the economic liberalization, formation of the MERCOSUR, and an official commitment to economic and financial stability, the standard of living of the lower class has improved substantially. People are eating better. Purchases of basic household appliances have increased, as well as energy consumption. ... I went to look at household goods in Brazilian IBGE, which is Statistics Brazil, ... and the consumption of fridges and stoves in the last 10 years for the lowest quintile of the population of income has increased dramatically. In 1987, among the households that had up to two minimum salaries — and a minimum salary I think in 1996 was at $112 — there were 60% that had a fridge. In 1996 it was almost 70%. [Annette Hester, 31:1655]

Yet, at the same time, this researcher noted that when viewed from a relative standard:

> We measure income inequality in the Gini coefficient. The Gini coefficient goes from zero to one, zero being perfectly equal and one the most unequal. During the last 10 years, in 1987 it was 0.56 and in 1996 it was 0.58. So it is more unequal. ... What happens when you separate where it's gone up and where it's gone down. ... In all of the new areas in Brazil — the northeast, Belém, Fortaleza, Recife, Salvador — the Gini got better. ... Where it got really bad was Sao Paulo, Porto Alegre ... [Annette Hester, 31:1655]

These results led the researcher to conclude:

> I know that the trade theory and everything will say the pie will get bigger. This system is really good at making the pie bigger, but it's really lousy at the distribution of this pie. [Annette Hester, 31:1700]

The Committee finds no fault with these conclusions, recognizing that poverty in Brazil may have declined in absolute terms in the past decade, but appears to have risen using a relative yardstick. Though the Committee would introduce a caveat with respect to any conclusions drawn on poverty based upon differences in the distribution of incomes as measured by the Gini coefficient, without first correcting for the differential impacts of being located at different points in the business cycle, changes in the economic structure of the country that are not related to trade, and changes in other social policy factors. In any event, the conclusions drawn by the researcher are probably generally true for most of Latin America, as Brazil's economy, while impressive throughout the first half of the 1990s, has been growing more slowly than the region as a whole. Consequently, this somewhat mixed result only serves to reinforce the Committee's view to take counsel from a learned moderate on the issue of free trade and its impact on wealth and poverty.

> When we recommend to developing countries liberalization of any sort, be it trade or financial, this has to be tempered somewhat by the fact that these policies or recommendations have implications for poverty and development ... But the consensus ... is that the link between liberalization and development is not a very simple one. In fact, a lot depends on the initial conditions in the countries where liberalization takes place and also the quality of the social, economic, and political institutions that are managing this change. [Rohinton Medhora, 28:1620]

In the end, the Committee is not sure of what benefit comparisons of alternative trade deals from the past would be, or what conclusions one should resurrect from them. Most free trade deals are

struck by countries of relatively equal social development in contrast to what would be achieved by an FTAA. The Committee can only conclude that, at this time, an FTAA is likely to bring general prosperity to the Americas; but whether or not this prosperity is fairly or equitably distributed throughout these societies in a way that would affect poverty one way or another remains open to debate. For this reason, the Committee would feel particularly disturbed if such a profound wealth generating reform as an FTAA was not leveraged to improve Latin America's large wealth and racial and gender inequality situation. Hemispheric political institutions must be devised and adequately equipped with resources to assure that an appropriate balance is found between economic prosperity and the eradication of poverty and discrimination as part of the Summit of the Americas process. In this regard, the Committee was told:

> Issues like the environment, the role of education, mothers and implications for the health of children are all included in the bigger document and they are being discussed in all other forums in the hemisphere, such as PAHO, on the health of the hemisphere. [Kathryn McCallion, 23:1215]

These other institutions would include the Inter-American Development Bank (IDB), the World Bank, the United Nations Economic Commission for Latin America and the Caribbean (ECLAC), and the Canadian International Development Agency (CIDA). The Organization of American States (OAS), for example, has requested the IDB to double its lending for primary and secondary education over the next three years relative to the previous three years. The OAS has also instructed the IDB, ECLAC and the World Bank to cooperate in providing distance education using, amongst other means, satellite technologies. However, the Committee wants to know more about these institutions, their specific programs, effectiveness and funding arrangements to ensure that more than a lackluster effort is being put into the non-FTAA components of the Summit of the Americas process. Given the demand for greater action to be taken on these issues, the Committee takes counsel from its witnesses in ensuring the right initial conditions are set for free trade reforms to be complementary to poverty and discrimination eradication objectives. The Committee recommends:

3. That the Government of Canada examine the mandate and mission of the Pan American Health Organization, the Inter-American Development Bank and the United Nations Economic Commission for Latin America and the Caribbean, including their abilities to carry out their assigned duties and responsibilities relating to the five objectives set out in the Summit of the Americas *Plan of Action* with respect to eradicating poverty and discrimination in the hemisphere.

Democracy, Human Rights and the FTAA

The principles of democracy and economic prosperity are also inextricably linked through trade. There are at least three points where they intersect: (1) economic stability, provided in part by free trade, fosters political stability and vice versa; (2) economic prosperity through privatization

and deregulation of economic activity required for successful implementation of free trade discourages "crony capitalism" practices of corrupt government officials; and (3) economic prosperity achieved from increased foreign competition as a result of free trade alters the incentives of commercial and government agents from coercive means towards offering financial incentives to condition people's work and investment behaviour, thereby demonstrating respect for human rights in a very tangible and mutually profitable fashion.

Consider the first intersection in more detail. Economic stability through free trade creates vested interests in avoiding political disputes and wars. The Committee heard of one such example relating to the MERCOSUR. In the context of trying to get a handle on the question of whether or not trade agreements were solely about trade, the answer obtained by one witness before the Committee was:

> On another front, trade agreements are acting as a political force. The most current example that comes to mind is the situation in Paraguay, where recently the former president was linked to the assassination of the vice-president. In other times the assassination of the vice-president could have easily led to great political instability and even a coup. Fortunately, times have changed. Paraguay is a MERCOSUR member country and has signed the Ushuaia Protocol, which institutionalized the MERCOSUR's democratic clause. Consequently, in the event of a coup it risked jeopardizing its membership. As you know, a crisis was averted with the help of the Brazilian and Argentine presidents. This is just one of the many examples I could give where trade agreements are acting in the political realm. [Annette Hester, 31:1610]

The consensus view presented to the Committee appears to be that the political conditions in Latin America have substantially improved to the point where the implementation of specific economic endeavours, such as an FTAA, would strengthen and reinforce the democratic gains achieved so far.

> At the beginning of the 1980s, Chile and Argentina had 24 unresolved border disputes, all of them fraught with the potential to break into open warfare. Of course they had military dictatorships at the time, which were ready to use their troops. They had a very militaristic approach to solving these problems. Now, 23 of the 24 have been resolved peacefully, and the last is on the way to resolution. That's just a good example of how they're dealing with their cross-border disputes. The most recent one to be resolved ... was the Peru-Ecuador dispute, which had broken into war in 1995 and was resolved late last year. There are only a few very minor ones left that don't contain any potential for open warfare. [Paul Durand, 25:1605]

In terms of the second intersection between economic prosperity and democracy, the problem of government corruption, or crony capitalism as it is often called, is to be fought both with political instruments and economic instruments. The former would include the modernization of the state through implementing a simplified and transparent bureaucratic code of procedures, and the latter would include deregulation and privatization initiatives. Both types of instruments are compatible and may, in fact, be important pre-conditions for successful implementation of free trade, thereby bolstering both the prosperity and the democracy principles. This relationship, as well as a sign of progress on this front in Latin America, was explained to the Committee in the following way:

> Privatization is having the effect of creating a situation where there is less incentive and there are fewer opportunities for corruption because there is far less government activity. The

> deregulation has meant there are far fewer civil servants to withhold something in order to grant a regulatory favour. Demonopolization has led to more competition and by its very nature has created the conditions where corruption is now exposed.
>
> One of the essences of the foreign investments that have been taking place in Latin America has been the importation, if you will, of these multicorporate ethics which are being applied in the business systems in these Latin American countries. In other words, some of the large transnational corporations simply will not enter into a country if they have to jump through corrupt means; and they make that known to the governments. [Bob Clark, 25:1635]

Human rights provide yet another linkage between democracy and economic prosperity, which was of central concern for many appearing before, or submitting briefs to, the Committee. Some witnesses were adamant that human rights issues should be directly addressed in any FTAA agreement. Here are a few samples:

> The principal argument we make is that human rights treaties, including the Charter of the United Nations, should take primacy over all trade treaties. It's interesting to note that within Canada our trade laws, and all our laws, are subject to our Charter of Rights in the Constitution. No trade law, whether it's the *Competition Act* or the anti-dumping act or whatever you want, of any province or any federal government law overrides or is not subject to the Charter of Rights. What we're saying is that trade agreements must take recognition of our human rights legislation, our human rights treaties, ones that we've ratified, such as the International Covenant on Economic, Social and Cultural Rights, and that these treaties should take priority. We believe the two should be carried on together and they should be compatible with each other. [Warren Allmand, 28:1535]

And

> One of our concerns then, of course, is that we would like the protection of people's basic rights to be the overriding and overarching concern in any kind of trade agreement. ... Canada and other countries in the region who have not done so should sign and ratify the American Convention on Human Rights from 1978 and the San Salvador Protocol on Economic, Social and Cultural Rights from 1988. We realize these are not perfect instruments, but they are a start, and we would encourage the Canadian government to take a close look at them and ratify them. Concerning the San Salvador Protocol, 10 countries have ratified the protocol to date, which is just one short of the 11 required for this instrument to come into effect. ... The recommendation is that Canada should sign and ratify the two instruments. [Eleanor Douglas, 27:1635]

Yet other witnesses, equally perturbed over systemic Latin American violations, preferred that such rights be sought and preserved in parallel fora and institutions.

The underlying source and historical context of abuses of human rights in Latin America was well articulated and summarized to the Committee.

> The trend towards sustainable social structures and economies has been dramatically positive in recent years, but these are relatively recent phenomena. We are not talking about societies that have shared our history of the development of democratic institutions, of an independent judiciary, of a viable democratic structure, and of a respect for human rights. Many of these countries are countries of conquest. Their historic evolution has been that of conquered peoples without the some kinds of institutions and accepted traditions of democracy and respect for individual rights that we take as natural. Not all of them are, but I think there are differences that are visible in the way people approach the whole notion of civil society, of engaging power that is outside of the institutional framework. [George Haynal, 25:1620]

The Committee sees at least three important ingredients presently lacking in Latin America to ensure an enhancement of human rights and democratic values: (1) civil society participation; (2) good political governance; and (3) the rule of law. The first ingredient, an active civil society, stems from the belief that everyone in society ought to be given the opportunity to be consulted, one way or another, by governments promulgating laws that affect them. Indeed, it is a virtual certainty that no law will ever meet universal acceptance and, thus, a healthy democracy will be characterized by a highly energetic civil society seeking out laws and codes judged, albeit subjectively, to contain unbalanced sets of rights and obligations. However, the Committee is of the view that Recommendation No. 1 in the context of the FTAA civil society process sufficiently addresses this aspect of the problem.

The second ingredient, good political governance, has partly been addressed by these societies themselves. A significant amount of deregulation and privatization of Latin American economies, along with the development of simple and transparent bureaucratic rules meant to weed out corruption, has already been undertaken. The Committee can only encourage Latin American governments to continue these efforts as it feels much more work can still be done in terms of instituting transparent bureaucratic codes of conduct. One witness, who also applauded the efforts of the Government of Canada for its role in ratifying the Organization for Economic Co-operation and Development's (OECD) anti-bribery convention in 1998, was more to the point:

> Another area where early progress could be made, in our view, and where Canada could play a lead role is transparency in government procurement and in other administrative processes. The transparency agenda relates to better governance; to fairer and more open processes and to less corruption; to a business environment that is transparent, where business is done with a high degree of integrity and where a legal system exists that gives confidence that the rules will be enforced consistently. [Robert Weese, 31:1640]

The Committee agrees with this assessment and will return to, as well as have recommendations to make on, this issue in its chapters dealing with government procurement and business facilitation.

Finally, in terms of the third ingredient, many Latin American countries have, for example, laws prohibiting the suppression of labour unions and the use of child labour, but these very same countries are fraught with those who engage in union-busting and children are routinely found in sweatshops a subject to which the Committee will return in Chapter 6. These facts suggest that there is not an absence of law in Latin America, but that there is no rule of law. The house of democracy must be built upon a strong foundation of respect for human rights and, as such, the equal application and enforcement of laws by independent police and judiciaries that is, independent from the legislature and its political masters are a democratic imperative. Which leads us to the original question with which witnesses before the Committee grappled: Whether or not an FTAA agreement should incorporate special enforcement provisions and institutions to sanction and curb human rights violations.

At first blush it may be tempting to include a "social or human rights clause" in the FTAA framework that would enable a supra-national FTAA institution to impose trade sanctions on

countries whose governments have well-established systemic human rights violations records. However, such means for correcting the democratic failings of others is not without its own set of pitfalls. As one witness correctly put it:

> I'm not suggesting that a democratic clause be included in the FTAA. As it stands, the MERCOSUR is a customs union among countries that share several commonalities, including stages of development, while the proposed FTAA is a free trade zone among several very diverse countries. I am afraid that this type of clause, if suggested by either Canada or the United States, would be seen as an imposition and could act as a deal-breaker. [Annette Hester, 31:1610]

The Committee is also mindful of the fact that while a free trade agreement is a political document concluded between sovereign governments, it is primarily an economic instrument meant to resolve or attenuate some economic problems. It is a very blunt instrument whose institutions have no track record and are not well equipped to cope with human rights violations. For example, just how a decision of sanction would come to bind the violating country's trading partners is at best vague, not to say anything about the allocation of the shares of burden and their enforcement. Clearly, the American Convention on Human Rights, enforced by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, is a far better social instrument for achieving these ends.

It has been suggested by some that Canada, because it has not ratified this convention, cannot act as an agent of human rights in the region. The Committee disagrees with this assessment. Canada has not signed the American Convention on Human Rights principally because, as it was drafted prior to Canada joining the OAS, existing Canadian legislation may not easily be made compatible with the convention. For example, Canada's hate and child pornography laws are not likely to square with the convention's reference to "freedom of expression," and nor would a number of Canadian laws do the same with respect to its "right to life" provision which begins upon conception and not birth. Short of signing the convention with a number of reservations or having it substantially modified, Canada can rely on its human rights record to be an effective advocate of human rights in the Americas.

At its very core, respect for human rights is not an economic problem but, as was alluded to above, is a problem of political and social culture. Human rights, concepts and norms, and universal access to justice and means of redress of any abrogations of these rights must be achieved through existing hemispheric processes and institutions. History further suggests that free trade can only, in an indirect way, foster better human rights records through a process of constructive dialogue. Moreover, the decisions of a hemispheric trade institution, using the World Trade Organization (WTO) as a guide, will increasingly favour conditions for the observance of human rights. The facts are that free trade leads to greater wealth and it is wealthy countries that, by and large, enjoy good human rights records.

For all of these reasons, the Committee believes that an eventual FTAA administrative body, like that of the WTO, should not become or be transformed into a human rights organization. We have already set up institutions for this purpose; if they are not functioning properly, they should be

fixed. Redundant administrations are not the answer and the creation of new prescriptive trade-based human rights instruments to indirectly resolve these problems should only be adopted as a last resort. Consequently, human rights, which is of quintessential importance for all democractic societies of the Americas, is therefore best pursued outside of the FTAA process, but within and outside the Summit of the Americas process. This is the current hemispheric framework design, though the Committee is receptive to an effective and relatively costless means of achieving this democratic end within the FTAA agreement. The Committee, as it did in its Report on the WTO, recommends:

4. That the Government of Canada, in preparing positions for negotiating a Free Trade Area of the Americas agreement, assess their impacts on human rights, seeking to ensure that there are no conflicts with Canada's international human rights obligations or with measures to protect and progressively realize rights which are affirmed under international law. The Government of Canada should also encourage its negotiating partners to do the same and take advantage of these negotiations as a way of advancing respect for human rights throughout the Americas.

Finally, the Committee believes that Canadian companies doing business in Latin America and the Caribbean are also a means of promoting respect for human rights if they were to lead by way of example in their treatment of workers and local affiliates. The Committee is already aware of Canada's voluntary business ethics codes and the OECD's Anti-Bribery Covenant which, in our opinion, are sufficient and we recommend:

5. That the Government of Canada increase its efforts in promoting Canada's voluntary business ethics codes and the Organization for Economic Co-operation and Development's Anti-Bribery Convention.

CHAPTER 4:
THE OPPORTUNITIES AND CHALLENGES OF AN FTAA

The Free Trade Area of the Americas (FTAA) presents Canadians and others of the hemisphere with many business opportunities. First and foremost, the FTAA offers the possibility of unexploited trade and investment occasions thwarted by existing trade barriers. Though in a rapidly developing world in which new technologies are fostering global economic integration, genuinely new commercial arrangements could also be included on this list. The next section will, to the greatest extent possible, try to provide a reasonable economic assessment of these foregone and forthcoming trade and investment opportunities.

In a few short words, we're trying to capitalize and take advantage of ... the potential ... the world of the Americas holds for Canada. ... Canada has done extremely well in the world of the Americas. Not only do we have a NAFTA deal with Mexico [and the U.S.] and a free trade deal with Chile, but our bilaterals with all the countries of the Americas, both on trade and investment, have gone up dramatically. I think it's in the national interest ... to not only [be seen] participating [in], but also leading in the unification of, what will be a tremendous region of the world. [Hon. Sergio Marchi, 24:1530]

The FTAA, however, is not without its set of political challenges. Four of the more prominent challenges to have already surfaced in varying measure to date include: (1) the lack of American fast-track negotiating legislation and apparent Brazilian intransigence to an FTAA; (2) the disparity in size and development of the hemisphere's economies; (3) business facilitation or customs administration issues; and (4) potential global financial crises. It goes without saying that, since the existing trade barriers were put in place as a result of powerful special interest and effective political lobby group pressures, one should not underestimate these recalcitrant forces who will exploit these challenges to their advantage and undermine the negotiations. Due attention and management of these FTAA challenges are, therefore, paramount and the following sections will deal with them in turn.

Economic Benefits and Trade Opportunities

International trade is important to the prosperity and well-being of a nation and its citizens. All participants to the Summit of the Americas process widely acknowledge this fact and have committed their countries to negotiate greater economic integration of the hemisphere through the removal of a wide range of barriers to trade and investment. However,

there is considerable misunderstanding over what to expect from free trade; that is, on what economic impacts would likely follow.

The lessons learned in the aftermath of the Canada-U.S. and the North American free trade debates bear repeating: free trade is about prosperity and well-being; it is not about who gains and loses more jobs — although the latter is undeniably an important consideration that will be taken up in Chapter 6.[11] In removing tariff and non-tariff barriers to trade, the prices of goods and services will better reflect the scarcity values of resources used in their production, thereby benefiting those companies, industries and sectors of the economy with a comparative or competitive advantage relative to others. Resources will then be reallocated within these economies to the more efficient production sources and locations, trade and foreign direct investment (FDI) will rise in response to less uncertainty arising from political risk, and more wealth will be created in the hemisphere in the process. From the export side of the trade equation, one could confidently predict that labour, management and shareholders of companies in the export-oriented sectors of the economy will share in this gain; this is what is usually meant by the prosperity claim. From the import side of the trade equation, one could also predict that increased competitiveness of Canadian firms importing products and services as an input to their manufacturing processes, not to mention the value to Canadians of the increased satisfaction derived from the importation of consumer goods and services from abroad, will form part of the gains to trade. The former would also be included in the prosperity figure, while the latter is what is usually meant by the well-being claim. Moreover, the extent to which greater economies of scale and scope can be attained with greater foreign market penetration by Canadian exporters, improved productivity and even greater wealth will result.[12] These economic benefits, while hard to measure and quantify, are not negligible but are widely understood to outweigh the losses incurred in selective sectors of the economies with a comparative or competitive disadvantage.

One commentator made us aware of an additional non-conventional benefit accruing to Canada's more resource dependent provinces.

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11 In making this argument to the public, the Department of Foreign Affairs and International Trade often cites that: "One in three Canadian jobs depends on trade with the rest of the world, and every $1 billion in new exports creates 6,000 to 8,000 jobs in Canada" and "a $1-billion increase in new inward foreign direct investment (FDI) to Canada generates approximately 45,000 jobs over a five-year period." This Committee, however, wants the public to understand from the outset that the prosperity and well-being of a nation go far beyond these job benefits. Indeed, it is doubtful that these job claims are relevant to an FTAA at all, at least in terms of net benefits. Imports into Canada have a labour content as well. Since Canada is a net importer of goods and services from Latin America and the Caribbean, the net job content of trade with Latin America and the Caribbean for Canada is presently more likely to be negative, not positive. Canada also maintains a net investor status in Latin America and the Caribbean, suggesting that jobs, on a net basis, are being created elsewhere in the Americas with Canadian financial resources. However, regardless of this apparent job deficit, the actual job implications of an FTAA may be positive, neutral or negative to Canada. This would depend on a host of variables such as any comparative and competitive advantages possessed or created by different companies and sectors of respective countries that are not currently being fully realized because of existing trade barriers, the combination of relative labour productivities and wage rates, and the terms of trade. For all these reasons, it would be a huge stretch to sell an FTAA on the basis of jobs.

12 Economies of scope refer to a plant's or firm's unit cost reductions attributable to new products being added to its production schedule, respectively.

> Alberta has developed a value-added industry ... that makes the province less prone to cyclical boom and bust. The number of value-added industries, such as meat processing, paper and paperboard, machinery, and electrical equipment, precision instruments, ... aircraft and parts, and furniture have really blossomed in the province. ... The FTA and NAFTA have created a competitive industry out here, which help cushions the blows of the cyclical boom and bust of the resource industries. [Rolf Mirus, 124:945]

Moving from the general to the specific in economic terms, an FTAA should provide plenty of trade and investment opportunities for Canadians and their businesses. One attempt to estimate the impact of opening the North American Free Trade Agreement (NAFTA) to include Argentina, Brazil, Chile and Colombia claimed that Canada could expect a small increase in total output in 10 of 23 tradable goods sectors examined, with the greatest growth to occur in electrical machinery, non-ferrous metals and miscellaneous manufacturing.[13] However, the Committee recognized from the outset that there are no comparable trade deals in size which could be used to estimate the magnitude of trade and investment opportunities that the FTAA would present. Lacking a reliable statistical anchor, the Committee instead chose to assemble a panel of business persons with experience in trade with Latin America and the Caribbean to provide insights on the region's potential for Canada.

First and foremost, there was a consensus among these experts that Latin America and the Caribbean provide Canadian business with modest export potential.

> As we look at Latin America ... we're looking at economies and societies that are fast-growing and dynamic. ... The countries of Central and South America represent increasingly important market opportunities and in some cases some pretty impressive competition for some of our businesses here in Canada. ... In the last few years the focus of ... business has shifted. Markets ... have been growing rapidly in China, other parts of Asia, and Latin America, while North American opportunities ... have been drying up. [Robert Weese, 31:1635]

The Alliance of Manufacturers & Exporters supported these beliefs by way of surveys of its membership.

> Their views have changed dramatically over the past five years. Of our members today, 46% regard Canada's free trade agreement with Chile as an opportunity, and only 3% see it as a potential threat to their businesses or markets. ... According to our survey, 79% of our members favour negotiation of a free trade agreement for the Americas. [Jayson Myers, 28:1605]

Beyond these opportunities being, in and of themselves, a stimulus for forging a free trade deal with the Americas, the Alliance suggests an additional strategic motivation for this position.

> There's another extremely important reason why our members are looking at the negotiation of a free trade agreement with the Americas, and that's because of the increasing penetration from

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13 D. Brown et al., "Expanding NAFTA: Economic Effects of Accession of Chile and Other Major South American Nations," *The North American Journal of Economics and Finance*, JAI Press, Vol. 6, No. 2, Fall 1995, Table 5, p. 161.

> competitors from Asia, Europe, and the United States into the Latin American market, and the extensive negotiations that are being conducted within Latin America itself. Countries like Mexico, Brazil, Argentina and Chile are negotiating other free trade agreements on a bilateral basis. This is a concern of our members who are looking at accessing the Latin American market and don't want to be left out of preferential trade agreements. [Jayson Myers, 28:1605]

This is not just "ivory tower" thinking, the Committee was told of one such instance unfolding as the hemisphere now contemplates the FTAA.

> We're [Gildan Activewear Inc.] a Montreal-based ... manufacturer of textiles ... We have 5,000 employees, with 1,000 in Quebec and the balance in the Caribbean and Central America, specifically Honduras, Nicaragua, El Salvador, and Haiti. ... The reason we've been very successful is because of access to the Caribbean and Central America by participating in the American bilateral agreement, known as the Caribbean Basin Initiative ... We basically went from 1992, when we did less than $30 million in business, to this year in which we did $330 million in business, and we're looking to do a half a billion dollars next year. ... The reason I mention the bilateral agreement is that ... we need to be aware of, as Canadians, ... our primary competition ... is the Americans. They really have a jump on us in terms of a precursor to the free trade of the Americas agreement by the various bilateral agreements they've created.
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> Specifically, I'll give you the most recent example, they had the audacity to present legislation in the United States that is called the Caribbean-NAFTA parity agreement. They've essentially created a bilateral agreement that gives the Caribbean all the benefits of NAFTA, yet they've specifically precluded Canada from participating in the agreement. [Greg Chamandy, 31:1625]

The Committee finds these and other reasons for considering an FTAA compelling. Despite the small fraction of commercial activity currently being conducted between Canada and Latin America and the Caribbean relative to our trade with the rest of the world, a free trade deal with this region would appear to be in Canada's interest. Trade between Canada and Latin America and the Caribbean has been growing very rapidly since the latter discarded their import-substitution policies in the late 1980s to early 1990s. Indeed, as shown in Chapter 1, this trade has grown more rapidly than it has with the United States in spite of the fact that this trade is supported by a comprehensive free trade deal, while trade with Latin American and Caribbean countries is not. This is an outstanding accomplishment and clearly indicative of the value that institutional support beyond the series of bilateral investment agreements in force today would bring.

The Government of Canada should, therefore, avoid looking back on past trade relations with Latin America and the Caribbean, which unquestionably amounts to a small fraction of Canada's total trade relations with the world, as an indication of what future trade relations might be. The Committee believes that Latin America and the Caribbean present trade and investment opportunities for Canadian business beyond that which is implied by the past. Canada should, instead, focus squarely on the future, recognizing the vast economic potential of the region. The Committee found these and other reasons for considerating an FTAA worthy and convincing.

American and Brazilian Political Posturing

Both the United States and Brazil are on record for being in support of the FTAA process and its agreed upon deadlines for completion, although it could be argued that their actions suggest otherwise. And these actions speak volumes. In the case of the United States, Congress is hesitant to provide the Clinton Administration with fast-track negotiating authority. In the case of Brazil, the government has assigned a higher priority to improving and consolidating the MERCOSUR over that of negotiating an FTAA.

Bipartisan politics, the historically large merchandise goods trade deficit and concerns over how to ensure labour and environmental concerns are adequately addressed in new trade deals have been said to preoccupy the U.S. Congress. Until some compromise is found to break the deadlock, the U.S. negotiating team appears much like a "lame duck" and its reputation and engagement at the negotiating table has suffered as a consequence. Moreover, the 33 other teams at the table sense that there will be two sets of negotiations: first with the U.S. Administration and second with the U.S. Congress. Not surprisingly, the prospect of being caught up at the wrong end of a "good cop, bad cop" negotiating ploy does not sit well with them and without any sign of leadership from the United States, all but a few parties appear tentative in their enthusiasm for an FTAA.

While it is widely known that the United States did not have fast-track authority early in the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) negotiations and that it is not essential from the outset, the United States, which is the dominant economy of the hemisphere, cannot be allowed to abdicate its leadership role. Until such time as fast-track authority is granted, it is the opinion of many Canadians that we should step in and fill the void. The Committee was told:

> Canada as a middle power can maximize its leverage at the agenda-setting stage of a negotiating process ... [T]here's a policy vacuum today. ... [F]ast track is not there and it won't be there until the next presidential election, but I do believe they'll get fast-tracked. And Brazil is going through its own problems right now. So Canada has a unique position to play. [Bill Holt, 122:1515]

Canada is assuming a leadership role, but apparent Brazilian intransigence is also a reason for concern. Given its scarcity in negotiating resources, Brazil has, on many occasions, tried to slow the pace of the FTAA negotiations. Apart from efforts to revitalize and consolidate the MERCOSUR, Brazil has just recently, through the MERCOSUR, engaged the European Union in a similar undertaking that would appear to further divert its attention and limited resources. There are, however, two opposing explanations advanced by witnesses appearing before the Committee for this behaviour. On the one hand, the Committee was told:

> Brazil gives priority to MERCOSUR in its trade policy, which means its trade agreement with Argentina, Paraguay and Uruguay, in order to create the basis of an economic bloc that is relatively well-integrated. In addition, through parallel agreements, these countries have agreed to extend the range of MERCOSUR by signing agreements with Chile and Bolivia, and by negotiating ... with Andean countries. Brazil has a ... South American strategy and does not look

> favourably on the hasty approach of the Clinton Administration, and especially that of the Government of Canada, to impose a hemispheric scheme that would inevitably be dominated by the United States. [Jean Deaudelin, 27:1610]

On the other hand:

> History ... points to the fact that most ... attempts at integration [of Latin America] were unsuccessful. ... The main criticism is that they tried to do too much in a timeframe that was too rigid. Thus, it's not surprising to hear that Latin American countries are suggesting that the FTAA process be conducted at a slower pace and with a less ambitious scope than originally suggested ... [Annette Hester, 31:1615]

While Canadian trade officials have a lot to be discouraged about in light of the political posturing of the two largest countries of the hemisphere, it is the opinion of this Committee that their patience will eventually pay off. The Committee recommends:

> **6. That the Government of Canada continue its proactive leadership role in moving the negotiations of a Free Trade Area of the Americas agreement forward.**

Disparity in Economic Size and Development

The FTAA represents a unique development in the integration of economies through free trade as it is the first to propose to do so between a large number of diverse economies. The disparity in size and development of these countries will inevitably present a significant challenge for two reasons. The first reason is the rather obvious fact that a huge trade deal between 34 countries will provide for a monumentally complex negotiation process; but, then, how could a deal of such magnitude be otherwise? The second reason is that the smaller Latin American and Caribbean countries fear the larger countries could overwhelm them in the negotiations and, consequently, that some of the latter's larger multinationals, which can employ more people and whose revenues can sometimes dwarf their gross domestic products (GDP), might eventually overrun their economies. This imbalance in size and economic muscle, they fear, may result in their more scarce natural resources being exploited to North America's advantage, without adequately sharing in its spoils, and to external forces dictating the course of their economic development.

As for the first criticism, it is clear that the smaller countries lack the resources necessary to conclude a mutually favourable trade deal, but this can be overcome with cooperation and technical assistance from others as the Committee explains in some detail in the next chapter. The second criticism is rather dubious. The disparity in wealth and development between North America and Latin America and the Caribbean is at best a double-edged sword. One could convincingly argue that this striking asymmetrical status, rather than the hypothetical polar case of equal hemispheric wealth, may show more promise for wealth creation throughout the Americas under a more harmonized rules-based market trading environment. That is, economic differences between nations and regions have, since the 1800s, been regarded as important determinants of, or the breeding

ground for, specialization and international trade. Furthermore, international movements of capital from capital rich regions, such as North America, can do much to elevate labour productivities in capital starved regions, such as Latin America and the Caribbean, and could set the demographic wealth profiles of these distinct societies on a path of convergence.[14,15]

Finally, the overwhelming empirical evidence points to the contrary. The economies of Canada and Mexico are approximately one-twelfth and one-twentieth the size of that of the United States, respectively, and the latter's firms boast greater sizes and exploit more economies of scale than do Canadian and Mexican firms. Yet both Canada and Mexico enjoy a merchandise goods trade surplus with the United States that have grown to record levels for both countries since the signing of the NAFTA. Impressions are one thing, facts are obviously another.

Business Facilitation

Business facilitation, dominated by customs administration issues, represents one of the four most important challenges to an FTAA. Currently, customs procedures throughout the 34 countries of the hemisphere are varied and, in some circumstances, can present a costly obstacle to trade. Indeed, as some countries consider the scope of customs procedures under negotiation as market access concessions, they signal their use as something more than territorial/border measures. A free trade deal, without dealing with customs procedures, is not quite a satisfactory solution as is suggested by Canada's export experience to Mexico since the NAFTA. It is, to say the least, not reassuring.

> If there's anything that has detracted from the enthusiasm of Canadian companies — and particularly I think this is true with respect to Mexico — it's some of the problems they've met in terms of getting their product through Mexican customs, dealing with some of the rules and the regulations affecting investment. We have a free trade agreement, but in actual fact the implementation of rules is something to be desired ... [Jayson Myers, 28:1655]

The ultimate objective of negotiating new FTAA customs procedures should be to make it equally as easy for a Toronto-based firm to do business in Bogota, Colombia, as it is for that firm to do business in Seattle, U.S. Thus, the amount of "red tape" related to customs administration should be harmonized and made as simple, efficient and transparent as possible while ensuring border integrity and territorial sovereignty. As such, all elements of customs procedures should provide certainty and predictability to producers, exporters and importers in order to boost their confidence in doing

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14 Greater productivity is possible and, indeed, made more likely if the reallocation of resources in these economies results in the attainment of any further economies in scale or scope in production — an outcome far more likely to occur in the smaller economies of Latin America and the Caribbean.

15 This proposition is somewhat controversial as empirical evidence on the matter is at best mixed. One strand of economic logic takes the position that the widening gap in incomes between rich and poor countries is in part the result of trade barriers, demonstrating empirically that their reduction has, in some cases, produced a convergence of incomes. Another strand of economic logic holds that trade openness promotes inter-country differences in the stocks of work-related skills between rich and poor countries in part because of persistent gaps in technological capabilities between them, which would tend to cause a divergence in incomes, with limited evidence in support.

business throughout the Americas. The related costs of doing business across borders should, therefore, be as minimal as is conceivably possible so that the above principle of conducting business across national borders applies equally across the hemisphere, regardless of the source or destination of the goods and services in question.

At the outset, it should be understood that business facilitation or customs administration measures within the hemisphere could be negotiated separately from the FTAA process; they need not be packaged together. The Committee appreciates, however, the fact that these obstacles can form a significant technical barrier to market access and that the resolution of these issues would be an important objective on the road to an FTAA.

> Even if, for the time being, we can't make rapid progress in the FTAA on significant tariff reductions, there are a number of business facilitation measures we could take that would make a contribution to good governance throughout the hemisphere, increase stability and predictability, and help the flow and reduce the cost of business transactions to the benefit of all concerned. One of these business facilitation measures is in the area of customs administration. Canada has played a leading role in promoting and supporting efficient customs administration in a variety of international fora. We have encouraged and supported training for customs officials, we've promoted standardization of customs forms, harmonization of classification systems, streamlined procedures and codes of conduct for customs officials. We've urged the adoption of electronic data interchange between customs authorities. [Robert Weese, 31:1635-1640]

The Committee is aware of the fact that the FTAA process has made business facilitation an immediate priority issue and that considerable discussions have already taken place. Many participants have apparently contributed to a questionnaire disseminated throughout the business communities of the Americas by the FTAA Trade Negotiations Committee. This effort garnered 217 proposals, which have been further refined to 51 customs measures. This sharper focus is being done for managerial reasons, with the objective of reaching an agreement on the principal customs measures by 2000. These measures were also divided into two groups: (1) customs-related measures and (2) transparency-related measures. Together, these measures include temporary importation of goods, importation of commercial samples and advertising materials, express shipments, reimportation of repaired or transformed goods, simplified procedures for low-value shipments, compatible electronic data interchange systems, a harmonized system of classification of goods, a hemispheric guide on customs procedures, and the rules of origin, amongst others.

Though business facilitation issues are truly an undertaking unto themselves, they are currently being considered as one element of the FTAA. The Committee believes this to be the correct approach to take. Ultimately, the progress made on this aspect of the negotiations will demonstrate the willingness of parties to conclude a meaningful FTAA. Business facilitation negotiations are, therefore, an early warning signal of the prospects and the degree of success likely to greet the FTAA. Moreover, the Committee holds the position that this aspect of trade should not be allowed to substitute for other trade impediments. The Committee therefore recommends:

7. That the Government of Canada make it eminently clear to all negotiating parties that Canada attaches great importance to the resolution of business facilitation issues.

Potential Global Financial Crises

The FTAA should be a positive economic development for the hemisphere. However, no one should be under the illusion that free trade is a panacea for what ails the Americas, particularly for the developing countries. If there is not a minimum standard of regulation and adequate supervision of financial markets (ideally using both incentive and audit instruments), sound corporate governance principles, and credible codes of conduct in implementing responsible fiscal and monetary policies, then trade and investment reforms pursuant to an FTAA will bring little sustainable economic prosperity to the hemisphere. Free trade cannot be expected to take root in a climate of high and volatile inflation, wide currency fluctuations, bloated government budget deficits, and heavy external debt loads. Proper financial preconditions must be set in place.

Therein lies the most unpredictable challenge, and uncontrollable from a policy perspective, of the four prominent challenges facing the FTAA today. Without the above complementary economic and financial stabilization policies, economic prosperity will last as long as it takes speculators to find the weakest link in the hemispheric financial network. When the financial fundamentals turn against this country, a domino effect may soon grip the Americas that will be costly to correct, if the FTAA is to remain intact and free trade detractors are not to gain the upper hand.

In most financial crises and when under siege from currency speculators, developing economies have often resorted to import and capital restrictions. These reflex reactions have provided their economies some measure of short-term relief, but as they do not get to the heart of the problem, they only exacerbate and prolong their financial woes. Indeed, capital restrictions are by no means a substitute for good macroeconomic management. These options, however, will largely be foreclosed for all countries of the Americas under the rules of the FTAA (depending on the terms of the safeguards negotiated), as they were for Mexico once the so-called "tequila crisis" took hold there at a time when it had just begun undertaking its NAFTA commitments. Other institutional measures will, therefore, have to replace these "fair weather" economic strategies.

> [It is unknown what] kind of impact ... global financial markets will have on the speed and tone and shape of the negotiations of the FTAA ... A lot of attention is being paid to how Brazil is going to manage its financial house and how that can impact on the negotiations, given that I believe the Brazilian economy is responsible for something in the order of 60% of the Latin South American GDP. From our perspective, these financial challenges only make the case for liberalized trade, rather than undermining [it]. ... I think the answer we are certainly pushing is that openness and transparency of those financial markets will be aided by more liberalized trade and commerce rather than being handicapped by it. Canada's view is that there is a challenge to resist the demands for a more protectionist, insular, inward-looking response to some of these financial challenges and to try to demonstrate the benefits to be gained by continuing a path of

> liberalized trade, whether the fluctuations of the marketplace are positive or negative. [Kathryn McCallion, 24:1540-1545]

The Committee would like to be able to assure Canadians that financial crises in the Americas will be a thing of the past once the FTAA is adopted and implemented, but the Committee would likely have more success ordering the waters of the Atlantic separated. Without a doubt, the question is not whether there will or will not be a financial crisis besetting a country of the Americas before, during or subsequent to the implementation of any forthcoming FTAA agreement, but when there will be such a crisis. It will be at these times that our hemispheric resolve for greater economic integration will be tested most.

The best policy advice the Committee can offer at this time is to put in place institutional measures to better coordinate domestic stabilization policies of the hemisphere to both avert financial crises from the outset and to better enable existing international financial institutions to act quicker and with more resolve when they cannot be averted. These institutional measures must also be able to contain the systemic financial risks which can take on contagion-like characteristics.

The Committee is also of the opinion that, despite the improved financial position of many Latin American and Caribbean countries (see Appendix 2) and their privatization efforts of the past decade, further financial reforms in many countries of the region are needed for the successful implementation of an FTAA. If the past is any guide, the speed at which financial capital markets are liberalized should not be allowed to outpace the financial sector's regulatory and supervisory reforms and modernization initiatives.

CHAPTER 5:
SMALL ECONOMIES AND THE CHALLENGE OF FREE TRADE

Small Economies Defined

Although described in Chapter 2 as the most productive economic region of the world, the Western Hemisphere is made up primarily of small developing economies. For instance, when defining a small economy as a country whose gross domestic product (GDP) is less than, let's say, US$50 billion, which would incidentally include all those with per capita GDPs of less than US$2,000 and a few others — or, more succinctly, poor countries — they comprise all countries of Central America and the Caribbean, as well as a handful of countries from South America. In fact, of the 34 countries contemplating a Free Trade Area of the Americas (FTAA), 25 countries would qualify as a small economy using this definition. If one was more strict in this definition, say halve the GDP threshold to US$25 billion, the number of small economies would be unchanged. If, on the other hand, population was the operative parameter, a threshold of 10 million people would produce similar results. In this instance, 23 countries would qualify as a small economy; halving the threshold to 5 million people would reduce the number of qualifying countries only to 20. Clearly, some combination of GDP and population size would provide a basis for determining which countries qualify for small economy status, but even large differences in the definitional anchor do not provide for much choice — in number, the Americas are simply dominated by small economies.

There are a number of challenges ... developing countries will face in an FTAA-WTO world. ... [M]embership, as they say, has its privileges, but it also has its obligations. ... [T]here are likely to be a lot of changes, particularly on the fiscal policy side, such as tax harmonization and doing away with export subsidies... [A] range of changes have to be made to trade and industrial policies in order for the country to have policies compatible with membership. [Rohinton Medhora, 28:1620]

Small economies are being singled out in negotiating and forming an FTAA precisely because a policy of free trade represents a far more significant political and economic challenge to them relative to their much larger counterparts. Indeed, the peculiarities of small economies, which will be described in brief below (for greater detail see Appendix 2), makes the move from an insular to a cosmopolitan state a difficult and onerous one. On the positive side, most countries

contemplating an FTAA have already joined the World Trade Organization (WTO) and are meeting, or on track to meet, existing General Agreement on Tariffs and Trade (GATT) obligations. So an FTAA will impose only an incremental burden on them. The severity of this burden will, of course, depend on the rigorousness of the transition period required in meeting the negotiated obligations. To ensure that these obligations are reasonable, the FTAA process includes a Consultative Group on Smaller Economies (CGSE) specifically charged with addressing and making recommendations to the nine Negotiating Groups on issues and concerns of small economies. Its objective is to ensure that the transition period is as orderly, uneventful and painless as possible.

To the Committee, it makes eminent sense that the CGSE establish early in the negotiating process some workable definition of a small economy. In its absence, there will be a rush of countries demanding such status once the terms of the agreement are largely negotiated. Needless to say, a stampede, if it were to amount to this, could add unnecessary complications and unexpected costs to the negotiations and possibly destabilize it. The Committee wishes to avoid such an event from the outset and recommends:

8. That the Government of Canada instruct its negotiating officials to work with the FTAA Consultative Group on Smaller Economies to first identify a clear and workable definition of a small economy. That the Government of Canada debate financial and other resource assistance to small economies, appropriately defined, for the negotiation and implementation, including matters relating to dispute settlement, of a Free Trade Area of the Americas agreement.

Political-Economy Challenges to an FTAA

Small economies are traditionally open economies and, in the case of Latin America and the Caribbean, their exports of commercial goods and services account for more than 40% and approaching 50% of their GDPs. In fact, the value of trade can often exceed their GDP as is currently the case of the Caribbean (CARICOM and others) and Nicaragua (see Table 2.1). Together, small populations and geographies combine to make for many non-competitive firms, as they cannot sufficiently exploit extant economies of scale in the production of manufactures, and less diversified economies, dependent on one or just a few export commodities and services. In the case of the former, mostly agricultural products; in the case of the latter, tourism and banking. Some countries have been able to successfully add labour-intensive light manufacturing into their export mix, though this is more likely the result of trade diverting preferential trading arrangements (Caribbean Basin Initiative and CARIBCAN) and favourable domestic corporate tax regimes favourable to domestic enterprises than any comparative advantage they might possess.

These special circumstances have obviously conspired to produce very distinctive and externally dependent economies. Small populations and geographies usually entail inadequate endowments of natural and human resources in the context of providing satisfactory comfort levels

of security in the case of an economic or natural disaster (i.e. sharp declines in the terms of trade in the case of the former; hurricanes, tornados, etc. in the case of the latter). Foreign aid (in some cases, foreign debt forgiveness as well) is often the only means of coping with these uncontrollable adverse external events. A second distinction of these economies would be that tariffs represent the most significant funding source of government-provided social programs. Small countries have relied on these tariffs primarily because of their inordinately broad tax base, their ease of administration at the port of entry and, as a hidden tax, they arouse little public opposition.

Macroeconomic stabilization of small open economies is also not without its own set of specific challenges. These less diversified economies with low savings rates traditionally run large current account deficits, financed by equally large capital account surpluses (if foreign currency reserves and their loan substitutes are not to be accumulated or run down). As they are price-takers in world commodities markets, they are particularly vulnerable to foreign shocks in demand and supply, and to gyrations in foreign capital and currency exchange markets. These external shocks can have a significant and immediate impact on their inflation, economic growth and employment performances compared to that of the larger economies with flourishing non-trade sectors. Finance ministers are, therefore, continuously challenged to provide attractive investment climates (i.e. premium interest rates and stable fixed currency regimes (pegged to the U.S. dollar)) and well-disciplined monetary and credit conditions. Moreover, as the government's fiscality is heavily dependent on tariffs, some measure of independence and manoeuvrability through fiscal policy is also lost, despite the greater vulnerability and instability of their economies.

The Committee heard many witnesses arguing that special status and treatment be granted to small economies. One such appeal went as follows:

> Canada needs to take leadership in recognizing the great diversity of economies and size and development levels in the hemisphere, again, as others have pointed out, recognizing that this diversity of development needs and size requires a differentiated approach to trading rules. Rather than working for a kind of one-size-fits-all hemispheric trade agreement, we need to be arguing for particular kinds of policies and trade and investments that better suit smaller economies — different timetables for those economies that have different levels of, for example, indebtedness; different diversity of their export base. [Gauri Screenivasan, 23:1630]

In the Committee's opinion, special circumstances demand special considerations. If an FTAA is to include small economies, there must be attractive provisions, particularly given that most of these countries already have preferential access to North American markets under the Caribbean Basin Initiative and the CARIBCAN. The Committee is aware of a number of available options:

1. lower levels of obligations (on a product-by-product basis);

2. best endeavour commitments (similar to the WTO);

3. exemptions from commitment in certain areas (i.e. subsidies);

4. flexibility in the application of disciplines (similar to the WTO balance of payments exception clause); and

5. asymmetrical implementation (longer tariff and non-tariff barrier phase-out periods).

Each of these options have their own sets of advantages and disadvantages, but, to the Committee, it would be preferrable to have every country subject to the same rights and obligations, as an FTAA would be rather arbitrary otherwise. The Committee was told by Canada's FTAA Chief Coordinator:

> The single undertaking concept means that at no matter what ... the elements, the final package is a whole ... It was decided that we would wait until we had the whole package, whereas the smaller countries are saying that they can agree ultimately to this but they'd like differential treatment in the number of years during which we would apply it. [Kathryn McCallion, 23:1145]

On principle, then, the Committee recommends:

9. That the Government of Canada maintain its current position that a Free Trade Area of the Americas agreement is a single undertaking, whereby signatories must accept all and not just parts of its negotiated terms. That this agreement include negotiated concessions to small economies.

Technical Challenges to an FTAA

The terms of a free trade agreement are not the only source of challenge to small economies, so is the negotiation stage of such an agreement. The Committee recognizes that trade agreements of any sort require the marshalling of substantial information and negotiating talent that are indeed scarce. Small economies are particularly burdened by the managerial requirements of identifying and pursuing their negotiating priorities; so much so that, from their perspective, an FTAA could be of dubious value. As one experienced witness succinctly put it:

> Brazil has a capacity or resource problem in terms of negotiation. Brazilian magazines recently highlighted that whereas the Americans could mobilize 50 or 60 negotiators for each issue, the 15 Brazilians had to negotiate all of them. There are therefore problems of capacity, political will, strategy and support, both in the private sector and in the unions and organizations in the civil society. ... [B]eyond those countries, most of the economies in Latin America are rather small. We often forget, for example, that the Chilean economy is about the same size as that of the island of Montreal and that many other economies are smaller. These governments therefore have a very limited capacity in terms of negotiations and trade policy and must negotiate at the sub-regional, global and Free Trade Area of the Americas levels, and this places a heavy burden on them. [Jean Deaudelin, 27:1610]

While some cynics might suggest that this is not a problem for Canada, but is a Latin American and Caribbean problem, the Committee thinks otherwise.

> We're asked sometimes if it isn't easier to negotiate with someone who doesn't know how to negotiate, and you could answer, "yes, it is, because we just overwhelm them," but the real

> answer is "no, it isn't" because there's no sense in having an agreement on paper if they're not ready to implement it. [Kathryn McCallion, 23:1145]

There were two identified solutions to this problem: (1) the pooling of resources among countries by sub-region and (2) trade-related technical resource and financial assistance.

> [T]here is some kind of safety, if you will, in numbers or economies of scale in research. For the smaller Caribbean economies or some of the Central American economies, there is no alternative but to do a lot of their negotiations together. That's where capacity-building comes in. ... If in fact poor small countries are going to play in the larger FTAA and WTO process, there are going to be three prerequisites. One is a civil society where issues are debated openly and critically. The second is indigenous analytical capacities to assess policy change. The third is the financial, technical, and human resources countries will need to adapt to this change. [Rohinton Medhora, 28:1625-1650]

The Committee agrees, but more is still needed. Financial and other resource assistance is required for small economies of the hemisphere, but there need not be any new regional funding mechanisms and authorities created as a consequence. The region already enjoys plenty of them. The Committee, therefore, stands by Recommendation No. 8 as being sufficient to the task.

CHAPTER 6:
LABOUR MARKET ADJUSTMENT AND STANDARDS

Trade liberalization undeniably generates economic benefits; however, these benefits are not distributed equally. Some interests gain while others lose. Nowhere is this more obvious than in the impact of trade on the labour market. This Chapter discusses the impact of trade liberalization on workers, especially in terms of structural unemployment. It also addresses concerns voiced by several witnesses pertaining to trade liberalization and its potential for diluting the quality of labour standards enjoyed in this country.

The question to us is not whether or not we should trade, but how to do it so that it leads to a prosperous and democratic region in which all citizens share in the benefits of economic growth and development. That's the key to the whole thing. [Dick Martin, 26:1610]

Labour Market Adjustment

The economic benefits of trade are becoming increasingly familiar to Canadians. National income is enhanced when countries specialize in the production of the tradable goods and services that they find relatively least costly to produce, while importing the goods and services that are relatively more expensive to produce. Such specialization also permits the firms of these countries to exploit economies of scale, something that is particularly important to a country like Canada, where the domestic market is small. Trade liberalization also attracts new investment and this, too, creates jobs. The Canadian economy has become increasingly dependent on international trade, which now accounts for almost two-fifths of gross domestic product (GDP), and, in 1998, Canada was the most trade-oriented of the G7 countries. As noted elsewhere in this Report, approximately one-third of all jobs in Canada depend on exports. In addition, it is estimated that 11,000 jobs are either sustained or created for every $1 billion in new exports.[16] The Departments of Industry Canada and Foreign Affairs and International Trade estimate that, over a five-year period, an increase of $1 billion in new investment in Canada from abroad creates up to 45,000

16 http://www.dfait-maeci.gc.ca/english/trade/wto/intl-trade.htm

jobs and increases GDP by some $4.5 billion. It is also thought that foreign direct investment is the impetus for one job in ten and approximately 50% of Canada's total exports.[17]

While trade is undeniably vital to this country's economy and its labour market, a Free Trade Area of the Americas (FTAA) would in all likelihood have a small impact on employment in Canada; the volume of two-way trade between Canada and non-NAFTA countries of the Western Hemisphere was less than 2% of total Canadian two-way trade in 1997.[18] The situation is much like that prior to Canada's improved access to the Mexican market under the North American Free Trade Agreement (NAFTA). Trade liberalization with Mexico was expected to increase Canadian GDP only marginally;[19] hence, the impact on employment was also expected to be quite small.

Though expected to have a relatively neutral impact on the level of employment in Canada, trade liberalization in the Western Hemisphere would very likely lead to a sectoral redistribution of jobs. In this context, jobs are expected to increase in expanding export sectors, while some jobs in the import-competing sectors of the economy will likely disappear. As indicated in Chapter 4, one attempt to estimate the impact of extending the NAFTA to include Argentina, Brazil, Chile and Colombia claimed that Canada could expect to witness a small increase in total output in 10 of the 23 tradable sectors examined, with the greatest growth predicted for electrical machinery, non-ferrous metals and miscellaneous manufacturing. An almost equal number of sectors were predicted to see decreases in output, with the most significant being in textiles and paper products. While employment effects were not directly estimated in this study, we can expect to witness a small redistribution of jobs as resources shift from the contracting to the expanding sectors. Consider the following perspective on the effects of the NAFTA on Canada's manufacturing sector:

> I want to point out that during the late 1980s, leading up to the free trade agreement with the United States and then with NAFTA, there were a lot of critics of the agreement who said that Canadian manufacturing, the forefront in terms of competition here, would be out of business, that many sectors of manufacturing would be wiped out. The reality is that manufacturing production is $150 billion higher today than it was in 1989. There are 100,000 more people employed in manufacturing than in 1989. The unemployment rate in manufacturing is 5%, as opposed to 8% or 7.5% for the economy as a whole. The sectors that we thought were going to be wiped out, like furniture and wine, are actually the fastest-growing sectors in percentage terms in Canadian industry. I'm not saying that didn't happen without a lot of hard choices and a lot of restructuring — that's perfectly true — but it has been restructuring to go into higher-value products, and that's what is giving manufacturing the boost today. [Jayson Myers, 28:1705]

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17 Department of Foreign Affairs and International Trade, *Opening Doors to the World: Canada's International Market Access Priorities, 1999*, July 1999, Chapter 3, p. 1.

18 International Monetary Fund, *Direction of Trade Statistics Yearbook*, 1998.

19 NAFTA's long-run impact on the size of the Canadian economy was estimated to be less than 0.1% (see Department of Finance, *The North American Free Trade Agreement: An Economic Assessment from a Canadian Perspective*, November 1992, p. 33-5).

An FTAA could also serve to keep export-related jobs in Canada by minimizing trade-related incentives to relocate elsewhere in the Western Hemisphere. As one witness said:

> We are manufacturers of activewear, predominantly T-shirts, sweatshirts, and golf shirts, and we are the fastest growing company in North America. The reason we've been very successful is because of access to the Caribbean and Central America by participating in the American bilateral agreement, known as the Caribbean Basin Initiative, that is their law 807 ... The bad news is that to participate in that bilateral agreement ... we've really had to move manufacturing facilities from Canada to the United States in order to be onside with their legislation. [Greg Chamandy, 31:1625]

As the demand for labour shifts towards export-oriented production, trade liberalization can also be expected to affect workers' earnings. In this regard, increased demand for labour and potential increases in productivity could result in higher wages in growing export sectors of the economy, but lower wages in declining import-competing sectors. Consequently, as trade liberalization permits developing countries to make greater use of their low-skilled workforces, the demand for similarly skilled workers in developed countries may experience job losses, lower wages or both. Some attribute the growing gap between the wages of low- and high-skilled workers in many developed countries to increased trade with less developed countries and the prospect of an FTAA has raised this concern. Empirical evidence, however, seems to support the view that growing wage differentials between low- and high-skilled workers in many developed countries are predominantly the result of factors other than trade. A number of studies suggest that 80% to 90% of the changes in wages and income distribution observed of late in Organization for Economic Co-operation and Development (OECD) countries is attributed to factors other than trade with developing countries (i.e. the high skills bias inherent in technological change).[20]

> [W]e are pursuing not just the question of the trade in goods and services; we are pursuing them with specific economic outcomes that relate to issues of employment and increased income. So it is against those outcomes ... that we also have to assess our economic policies. [Gauri Screenivasan, 27:1655]

The Committee maintains that the benefits of trade liberalization under an FTAA must be shared. When workers are displaced as resources move from contracting to expanding sectors of the economy, governments have the responsibility to help them secure new jobs. This assistance is thought to be particularly necessary for older displaced workers, whose skills may be redundant and who, in the absence of help, face long periods of joblessness.

Labour Standards

Concern was also expressed during our hearings about the impact of an FTAA on Canadian labour standards. Some witnesses believe that an FTAA would provide an opportunity for governments in the Western Hemisphere to commit themselves to a stronger protection of

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20 World Trade Organization, *Annual Report, 1998*, p. 48-9.

fundamental human rights, some of which are manifest in basic labour standards. This view is based in part on the concern that, in the absence of a requirement to adopt minimum labour standards, high-standard countries like Canada will lower their labour standards in order to remain competitive. Implicit in this view is the assumption that firms not bound by minimum labour standards enjoy a competitive advantage over firms that are so bound. Moreover, it is believed that the growing competitive pressures associated with trade liberalization will serve to undermine workers' rights in countries with high labour standards. This view underpins the "race to the bottom" scenario.

> I want to point out that when we are talking about standards, we're not saying that the wages and benefits in a Latin American country should be what they are in Canada or the United States. We're talking about standards such as the right to organize and the right to collective bargaining ... That's the kind of minimum standard we want to see recognized in this trade agreement. It's not that they should have our standards of wages, pensions, and all that, but they should have the right politically and through collective bargaining to negotiate what is reasonable for them. [Hon. Warren Allmand, 28:1725]

Contrary to this view, others maintain that trade liberalization provides an opportunity for countries and their workers to enhance their economic well-being; the wealth-creating effects of trade liberalization will result in better working conditions and higher labour standards. The Committee was told that the alleged "race to the bottom" is a myth unsupported by any evidence. A recent OECD study found a positive two-way relationship between trade liberalization and improvements in association and bargaining rights and not a single case where association rights had deteriorated after trade reforms.[21]

The Committee was also reminded that many countries with low labour standards view the demands for these to be raised as disguised protectionism and as tantamount to undermining their real competitive advantage, namely low-wage labour.

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21 OECD, *Trade, Employment and Labour Standards*, Paris, 1996, p. 112.

Table 6.1
Fundamental ILO Labour Standards Ratified by Potential FTAA Countries

Country	Freedom from Forced Labour		Freedom of Association		Equal Treatment		Minimum Working Age
	Con. 29	Con. 105	Con. 87	Con. 98	Con. 100	Con. 111	Con. 138
Antigua & Barbuda	r	r	r	r	*	r	r
Argentina	r	r	r	r	r	r	r
Bahamas	r	r	d	r	s	s	s
Barbados	r	r	r	r	r	r	*
Belize	r	r	r	r	s	r	s
Bolivia		r	r	r	r	r	r
Brazil	r	r	–	r	r	r	r
Canada	s	r	r	d	r	r	d
Chile	r	r	r	r	r	r	r
Colombia	r	r	r	r	r	r	*
Costa Rica	r	r	r	r	r	r	r
Dominica	r	r	r	r	r	r	r
Dominican Republic	r	r	r	r	r	r	r
Ecuador	r	r	r	r	r	r	
El Salvador	r	r	s	s	*	r	r
Grenada	r	r	r	r	r	–	–
Guatemala	r	r	r	r	r	r	r
Guyana	r	r	r	r	r	r	r
Haiti	r	r	r	r	r	r	–
Honduras	r	r	r	r	r	r	r
Jamaica	r	r	r	r	r	r	-
Mexico	r	r	r	s	r	r	
Nicaragua	r	r	r	r	r	r	r
Panama	r	r	r	r	r	r	*
Paraguay	r	r	r	r	r	r	s
Peru	r	r	r	r	r	r	-
Saint Kitts & Nevis	s	s	s	s	s	r	s
Saint Lucia	r	r	r	r	r	r	
St. Vincent & the Grenadines	r	r	s	r	s	s	s
Suriname	r	r	r	r	–	-	*
Trinidad & Tobago	r	r	r	r	r	r	*
United States	d	r	d	d	d	*	s
Uruguay	r	r	r	r	r	r	r
Venezuela	r	r	r	r	r	r	r

(r) denotes ratification, (*) denotes ratification process has been initiated, (s) denotes that the Convention is being studied, (d) denotes that divergences exist between the Convention and national legislation.

Source: International Labour Office. The information presented in this table is current as of 23 June 1999.

At present there is no formal link between international trade and the protection of workers' rights. The World Trade Organization (WTO) was never intended to make this link; except in the case of prison labour, WTO rules are devoid of any binding obligations to comply with internationally recognized labour standards. In fact, the December 1996 WTO Ministerial Conference identified the International Labour Office (ILO) as the competent international body responsible for protecting fundamental workers' rights in a multilateral trading environment. All WTO members are members of the ILO, and many of them have ratified one or more ILO conventions dealing with the fundamental rights of workers. Even so, there is a tremendous reluctance to permit countries to use trade sanctions as a means of enforcing fundamental labour standards. As stated in the WTO's Singapore Ministerial Declaration in December 1996, "[w]e reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low–wage developing countries, must in no way be put into question."

The ILO's governing body has identified seven conventions embodying fundamental labour standards that should be extended to workers, irrespective of a state's level of economic development. These include the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87); the Right to Organize and Collective Bargaining Convention, 1949 (No. 98); the Forced Labour Convention, 1930 (No. 29); the Abolition of Forced Labour Convention, 1957 (No. 105); the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); the Equal Remuneration Convention, 1951 (No. 100); and the Minimum Age Convention, 1973 (No. 138). These conventions — commonly referred to as core labour standards — are regarded as the fundamental basis of all other rights in the workplace. They were reaffirmed by the 86th International Labour Conference, at which the ILO Declaration on Fundamental Principles and Rights at Work was adopted. This declaration obliges all member states to respect the fundamental principles associated with the aforementioned core labour standards, whether or not they have ratified the relevant conventions. As shown in Table 6.1, many potential FTAA signatories have ratified, or are in the process of ratifying, at least some of these conventions. Eleven of these countries have ratified all seven conventions. Canada has ratified four, and the United States has ratified one and is in the process of ratifying another.

Despite the lack of evidence that trade liberalization may lessen the core rights of workers, the Committee believes that it is important to strengthen the link between core labour standards and trade. Labour standards must be protected and improved. In keeping with the position taken in its Report on the WTO, the Committee is reluctant to endorse a hemispheric trade agreement to permit trade sanctions against signatories deemed to be in violation of one or more of the ILO's core conventions. No organization is capable of arbitrating alleged violations and, as noted in the aforementioned report, there are several drawbacks to relying on the ILO to defend the fundamental rights of workers in a multilateral trading environment such as that contemplated under an FTAA. One is the lack of a basis for protecting workers' fundamental rights in the absence of ratification, a situation that is commonplace since only a minority of potential FTAA signatories have ratified all seven conventions relating to core labour standards. It is also thought that some of the core ILO

conventions lack the necessary legal precision and predictability to allow their enforcement to be linked to trade rules. Moreover, the ILO's enforcement mechanism is clearly wanting.[22]

Though the Committee does not support the use of trade sanctions as a means of ensuring that FTAA members comply with ILO core labour conventions, it does believe that the ILO's role in protecting the fundamental rights of workers in the Americas, and even elsewhere in the world, must be enhanced under an FTAA. This position is consistent with the one taken in the Committee's Report on the WTO.

As previously noted, some witnesses supported the creation of a link between an FTAA and core labour standards. The Committee also heard a dichotomy of views on the preferred approach for their linkage. Some opposed using a NAFTA–like side agreement and wanted to incorporate labour standards in an FTAA. Others endorsed the idea of a separate agreement outside of an FTAA. The Committee believes that an ancillary agreement, such as the North American Agreement on Labour Co–operation (NAALC), might best address the concerns of those who fear that Canadian labour standards would diminish with freer trade in the Americas. Such an agreement would avoid the likely possibility of protracted negotiations by eliminating an additional layer of complexity. More importantly, the possibility of using labour standards to facilitate protectionism would be reduced, a position also endorsed by the WTO. By seeking an agreement on core labour standards outside of an FTAA, each country's sovereignty in the area of labour law would also be assured. In the Committee's view, the primary focus of an FTAA side agreement on labour standards should be standards related to the fundamental rights of workers as identified by the ILO's Governing Body, although the promotion of non–core labour standards should also be encouraged. An FTAA supplementary accord on core labour standards should protect these rights to the extent that they are protected under national legislation. The institutions, enforcement provisions and dispute resolution features put in place to achieve this goal should encourage signatories to respect and build upon their core labour standards.[23] The Committee also believes that the ILO should be an active participant under these agreements and that the model selected must be affordable for all FTAA signatories.

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22 The ILO encourages compliance through its international supervision activities. Every five years members are obliged to supply reports on the effect given to ratified conventions. The Committee of Experts reviews these reports. If a government is deemed to be delinquent it is informed of the necessary steps that should be taken to ensure full compliance. In addition, any member state, or national or international workers' or employers' organization may make a representation that a member state has failed to comply with a ratified convention. These representations are reviewed by the Governing Body, which may decide to appoint an independent Commission of Inquiry. The Commission reports its findings and the Committee of Experts follows up on the implementation of any recommendations. While these procedures may persuade some member states to comply, in reality the ILO is void of any real enforcement powers.

23 One reason why some witnesses opposed linking trade and labour standards through a supplementary agreement like the NAALC was the perceived ineffectual enforcement mechanism associated with this agreement. This perception has merit, since enforcement penalties are limited to non–enforced labour laws dealing with health and safety, child labour and minimum wages. The majority of submissions to date pertain to alleged violations of the right to freely associate and organize a union. Enforcement provisions pertaining to violations related to this key labour standard, in conjunction with the right to bargain collectively and the right to strike, are limited to ministerial consultations, with no further action required.

The Committee therefore recommends:

10. That the Government of Canada work to build up the presence of the International Labour Organization in the hemispheric initiative and continue to promote labour standards throughout the Americas.

CHAPTER 7:
SUSTAINABLE DEVELOPMENT AND THE ENVIRONMENT

The Economy-Environment Nexus

The environment happens to be our, as well as other species' life support system, functioning as a resource supplier, waste assimilator and direct source of aesthetic value. These functions are carried out in what can be conveniently called a closed economic system in which everything is an input into everything else. This is a simple fact flowing from the first law of thermodynamics, wherein we cannot create or destroy energy; it can only be converted or dissipated into some other form, and, therefore, all natural resource exploitation activity ultimately ends up or remains in the environment in the form of waste until assimilated. When we find the appropriate balance between the harvest and natural regeneration rates of our renewable resources and keep the consequent waste flows within the assimilative capacity of the environment, it can be said that we have achieved "sustainable development." Under these conditions, the natural state of the environment can be maintained indefinitely for future generations (who will hopefully not squander them).

The issues of global survival ... dwarf the petty mercantile concerns of the free traders. But the free traders got all the tools to ensure compliance. ... [W]e have the power to embarrass, and that's all. The imbalance between effective ... trade rules and weak global environmental agreements would not be fatal if the trade issues and environmental issues stayed neatly in separate boxes. But the world is considerably more messy ... If corporate interests fail to thwart an environmental regulation at the domestic level, the GATT and NAFTA provide another route of attack. One man's environmental regulation is another man's non-tariff trade barrier. [Elizabeth May, 29:1555]

Identifying and describing sustainable development in such a general way is one thing, achieving it is quite another. For instance, market systems obtain an efficient allocation of resources, man-made or environmental, when the prices of all resources reflect their scarcity values, which would include the costs related to the right to use our common life support system. Put another way, the pollution costs of economic activities must be factored into the pricing of resources, otherwise there is little incentive to economize and tame our polluting ways. In general, a policy of free trade is better able to complement the marketplace in achieving this allocative objective — in fact, it extends it across the globe — as tariffs and non-tariff barriers discriminate against the efficient use of resources, and, obviously, the inefficient use of resources is neither friendly to the economy or the environment.

Since economic activity first began, but particularly since the industrial revolution, man has been able to exploit most natural resources on a grand scale without directly paying for the life support functions undertaken by the environment. We have been able to do so because the environment is, in most situations, common property and free for the taking. The world's economy has, therefore, benefited from an environmental subsidy, resulting in the over-exploitation of natural resources and often leading to excessive air, water and solid waste pollution, the breakdown of existing ecological systems, the destruction of wildlife habitat and species extinction. Left unchecked, the life support activity undertaken by nature will degrade, possibly in certain locations to a point beyond repair or restoration in our and many future generations' lifetimes.

Governments of all political stripes have, therefore, chosen to step in and supplement the market in a variety of ways to achieve a better environmental result, using command-and-control instruments (mandatory pollution abatement technologies, regulated effluent discharge rates, toxic substances disposal rules and direct funding of recycling programs) as well as market-based instruments (transferable pollution permit or quota systems and tax-cum-subsidies). On the international front, governments have committed to improving the environment through several recently signed multilateral environmental agreements (MEAs). Thus, in the name of protecting the environment, human health and all life-forms, governments have interrupted the marketplace and substituted private-sector value judgments of resource scarcities with their own, with varying degrees of allocative success.

The nexus between the economy and the environment is unquestionably complex and dynamic — ignorance abounds. Getting and maintaining a firm handle on economic-ecological interaction has become a perennial social concern. About all that can be said with some acceptable measure of confidence is that organisms, humans included, are not only the result of, but are also the causes of, their environmental habitats and their changes. From an economic perspective, then, without accurate cost estimates of the environmental damage inflicted by our behaviour, but more importantly by our industrial activities, and more certainty on their linkages, the possibility of market failure (i.e. the Exxon Valdez fiasco), on the one hand, and government failure (i.e. the commercial East Coast cod fishery collapse), on the other, will inevitably persist. Indeed, it is hard to put a finger on what institutions best preserve the environment and its assimilative capacity without better knowledge.

Trade and Environment Policies in Perspective

There is no inherent conflict between the trade policy objective of efficient allocation of global resources and the environmental policy objective of sustainable development. They are complementary in theory and when properly put into practice. Indeed, apart from eliminating trade-distorting and efficiency-impairing tariff and non-tariff barriers, trade institutions have frowned on subsidies, particularly export subsidies, and have worked progressively to reduce and eliminate them. These measures are widespread in agriculture and fishing sectors, where excessive

production capacities have built up over time yielding adverse environmental impacts on soil quality and fish stocks.

Liberalizing trade in environmental goods and services provides yet another positive cleavage between international trade and the environment, whereby a policy of free trade lowers the costs to governments of pursuing quality improvements in environmental infrastructure. Investment liberalization also makes it possible for firms from developed countries to export their more environmentally-sensitive production processes and "state of the art" managerial practices to developing countries that cannot afford them.

Finally, trade liberalization fosters economic growth for developed and developing countries alike. The wealth generated by having greater access to foreign markets and more efficient production promotes the ability of countries to develop and maintain sustainable development policies. Wealth and environmental protection are clearly related — positively so — as the wealthier countries have demonstrated by their willingness to preserve nature as they have come to know it for personal health reasons, as well as for its aesthetic beauty in the advent of the burgeoning eco-tourist industry.

While nobody appearing before the Committee disputed these compatibilities, some witnesses feared the "race to the bottom" scenario: domestic environmental standards would be lowered or suffer lax enforcement in the wake of companies shifting production locations and jobs to the jurisdictions with lower environmental standards and lax enforcement. Though the Committee has its doubts. The Committee refers to the Dun and Bradstreet study, which found that 80% of the Canadian companies surveyed spent between 0-2% of their budgets on environmental protection. A similar study, for the United States Trade Representative found that pollution abatement costs average about 1.1% of value-added for all United States industries, and 86% of all industries have abatement costs of 2% or less.[24] When one further factors in the observed industrial clustering phenomenon (for example, the new high-tech companies in Kanata, Ontario, steel companies in Hamilton, Ontario, and Pittsburgh, Pennsylvania, and film studios in Hollywood, California) which likely stems from extant agglomeration economies that appear to dominate pollution abatement cost considerations, the Committee is not surprised that these critics could not provide any evidence of environmental migrant companies.

Again, while no one disputed the compatibility between a policy of free trade and sustainable development, there was also no shortage of criticism levelled at trade experts with regard to their competency in handling complex environmental policy matters. Even when sufficient information of the trade-environment issues existed, trade experts invariably sided with trade priorities over those of the environment whenever there was a conflict. Indeed, these new trade deals provide industry with the added ability of challenging existing environmental measures.

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24 NAFTA Environmental Review Committee, *North American Free Trade Agreement: Canadian Environmental Review*, Government of Canada, Ottawa, October 1992, p. 62; and Office of the United States Trade Representative, *Review of U.S.-Mexico Environmental Issues*, Washington, D.C., February 25, 1992.

> The first was a Venezuelan challenge against measures under the *U.S. Clean Air Act* to reduce emissions for reformulated gasoline. The challenge was brought by the Venezuelan government, but the real pressure to change the regulation came from the subsidiaries of the same multinational oil and gas companies that had failed to keep the regulation out in Washington. The challenge to the WTO provided another route of attack. It succeeded, and as a result U.S. air is dirtier. [Elizabeth May, 29:1600]

These actions, as opposed to claims of being supportive of environmental issues, led many witnesses to the conclusion that the existing trade institutions, most notably the World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA), are not environmentally friendly.

Institutional Management of Trade and Environment Issues

Throughout the Committee's hearings there was considerable reference to trade court rulings involving environmental issues, perhaps none more forcefully expressed than the following:

> [U]nder the World Trade Organization, we have seen the tuna-dolphin case, the turtle-shrimp case, the beef hormone case, and under NAFTA the raw log export case — Canada cannot insist on controls against the export of raw logs to keep jobs in Canada and reduce stresses on our forests. Under the FTA, the salmon-herring case similarly said that Canada could not ban the export of unprocessed salmon and herring, even though it had importance in conserving fish stocks and protecting jobs. [Elizabeth May, 29:1600]

By and large, this Committee does not quarrel with the decisions taken by trade courts in these cases and takes issue with these criticisms. The beef hormone, tuna-dolphin and turtle-shrimp cases involved a potential non-tariff trade barrier disguised as a health or environmental protection measure that was clearly an issue for the trade courts to sort out. The beef hormone case depended, of course, on the corroborating scientific evidence and the appropriate precautionary principle and, in the end, the courts decided in favour of Canada and the United States and against the European Union's import ban. The tuna-dolphin and turtle-shrimp cases again involved a powerful country — this time the United States — that imposed a ban on imports that infringed on a foreign country's sovereignty to establish environmental standards appropriate to it. It must be remembered that the quintessential issue for trade courts is not whether the activity in question adversely affects the environment — almost all industrial and resource exploitation activities adversely affect the environment — but whether these specific fishing methods are distorting trade through non-conformity with the environmental standards that the country has established and to which it is contractually committed.

Furthermore, the Committee is not at all surprised that trade courts sided against the two Canadian resource cases. The fact that these policies were put in place to protect domestic jobs and value-added commerce, something that was openly conceded, should have raised red flags. Banning the export of unprocessed logs and fish may have been acceptable environmental policies in the past when forest practices did not reflect "sustainable yield," let alone "sustainable development,"

principles and total allowable catches, or TACs as they are called in fishing circles, did not accurately reflect fish stock and recruitment estimates, respectively. However, within the confines of today's state of the art resource management tools and practices, these policies would obviously be viewed by trade courts as purely protectionist, discriminatory and in violation of national treatment commitments. These environments could clearly have been protected by other, non-discriminatory means, as they are elsewhere in Canada and across the world.

As a concluding comment on these cases, the Committee would have the public understand that a trade court decision to strike down an environmental or health measure deemed to be discriminatory and contrary to international commitments is not the end of the issue. The offending party has three courses of action and one course of inaction left open to it: replace the discriminatory environmental measure with alternative non-discriminatory measures; negotiate a compromise with the agrieved parties; simply revoke the discriminatory measure; or it could do nothing, and retain the offending measure while accepting retaliation of "equivalent commercial effect." In two of these four options, there is no apparent, direct or indirect, environmental or health implication; only in the case of a negotiated compromise or in the failure to replace the measure is there an environmental or health implication, but the sovereign government making this choice remains answerable to its electorate — an important issue for environmental protection to which the Committee will return below.

Mutually consistent policy instruments, of course, require coordination between international trade and environment institutions, which appears to be lacking, given some of the case references above. Although a satisfactory explanation was advanced:

> I think the difficulty we have with respect to three multilateral environmental agreements, for example, which at first blush appear to have trade provisions within them that are not in accord with the provisions of the GATT but are not tested ... is that members of those environmental agreements do not have a dispute settlement process within their own agreement. I'm thinking of Basle, for example, which does not have its own dispute settlement process. That is unfortunate, because if there is a disagreement between nations at the end of the day and they are forced to go to the World Trade Organization, for example, they will not necessarily be in front of environmental experts; they will be in front of trade experts. [Gordon Peeling, 30:1705]

Virtually all environmentalists appearing before the Committee confirmed this fact and complained about the lack of enforceability of MEAs.

> The largest ever summit of world leaders took place in June 1992 in Rio de Janeiro, with commitments made to protect global climate from disastrous destabilization caused by greenhouse gases, to protect the world's genetic and species and ecosystem diversity, to increasing global aid flows to assist the developing world, and to the precautionary principle to ensure the protection of health and well-being of humans and our life support systems. But seven years after Rio, those multilateral environmental agreements, or MEAs ..., are notable for the failure of many governments to honour their commitments.
>
> Meanwhile, since 1992, the World Trade Organization, which did not even exist at the time of Rio, has achieved an impressive record of enforcing its trade regime. The new implementing

> agency for the GATT, created through the long Uruguay Round of multilateral trade negotiations, has been obeyed, and where failure to meet its terms is suspected, trade disputes and effective, swift, and merciless trade sanctions follow. [Elizabeth May, 29:1555]

As many witnesses suggested, there appears to be a lack of political will to deal with environmental issues at the international level. Trade courts put in place to enforce trade agreements should not be made scapegoats when unenforceable MEAs fail to protect the environment; although an admittedly less effective policy complement has emerged since the NAFTA:

> That's why we look at sidebars. ... We think there are many benefits that can arise out of these agreements and, indeed, out of the overall promotion of trade liberalization. We think that with economic development, the expansion of trade, job creation, the new generation of wealth, and the ability of governments to capture additional rents. ... It all leads to a strengthening of institutions, which can then play out in improved environmental performance and enforcement of environmental regulations and health, safety ... and we believe that those benefits outweigh the cost. [Gordon Peeling, 30:1705]

> The promotion of environmental and labour standards should be considered as separate and distinct issues from the FTAA investment or trade agreement and should be treated on a parallel track, i.e. as side-bar agreements. [Gordon Peeling, 30:1615]

These "sidebars" can partially correct for the lack of enforceability of MEAs and provide some balance between trade and environment objectives. Some basic principles were advanced:

> The NAFTA regime does indeed work in accomplishing the sustainable development win-win of trade liberalization, combating protectionism in our major markets abroad, and also providing ecological protection and enhancement. ... First, we need to focus on preambular principles, the basic normative aspirations of the regime itself. And here, ... it is worth noting that the core NAFTA trade text ... affirms at the beginning that the overall goal, amongst some others, of the NAFTA trade liberalization is the promotion of sustainable development and the strengthening of environmental laws and protection. Trade liberalization is a means to this higher end, so says the core NAFTA text. Secondly, the core NAFTA text also affirms the primacy of multilateral environmental agreements, some with trade-restricting provisions, over the trade liberalization brought by NAFTA itself. And here, I think, we have to carry that principle forward and look more sharply into the multilateral realm. ... Thirdly, environmental enforcement is a complex topic. Canada did succeed in the NAFTA architecture in saying we would not allow broad-based trade restrictions to be used to enforce the environmental objectives of the agreement. Mexico and the United States were unable to escape that threat to the basic thrust of the trade liberalization regime. [John Kirton, 122:940-945]

Environmentalists, however, are not impressed with the current design of these supplementary environmental agreements.

> I have trouble seeing any concrete benefit that has yet been achieved by the NAFTA environmental side agreement. In the time that the commission has existed, it has issued two reports that have been of benefit by identifying major polluting jurisdictions in North America ... Aside from that ... one doesn't see much achievement. I simply don't think that's the way to go,

> and I reiterate that if you read the agreements and see the provisions of the agreement that bind government's capacity to set standards, that's not going to be fixed by any kind of side agreement. [Michelle Swenarchuk, 30:1730]

If there is an incompatibility between trade and the environment, as may have been borne out in the *Venezuela-U.S. Clean Air Act* and the beef hormone cases, it lies with the policy instruments and supporting scientific knowledge. The Committee recommends:

11. That the Government of Canada seek to ensure that adequate national environmental standards and norms established in applicable international agreements are respected throughout the Americas. That the Government of Canada, in negotiating the terms of the Free Trade Area of the Americas agreement, work towards clarifying the rules to uphold obligations under multilateral environmental agreements and provide for better multilateral disciplines governing trade-related environmental and health measures.

And

12. That the Government of Canada seek to ensure that trade officials have access to the most up-to-date scientific environmental data.

The Committee was provided with conflicting advice on the rules that should guide an FTAA environmental accord. On one hand:

> Canada [should] strive toward the clarification of existing rules, and I'm thinking here of the trade and environment interface. The transparent development and application of environmentally based standards and other measures should be the goal while, at the same time, they disallow unwarranted discrimination or unilateral extraterritoriality with respect to production processes. ... [T]he precautionary principle [is supported] where international technical regulations or standards do not exist or are inappropriate, provided that the alternative domestic regulations or standards fulfil an assessment of risk and provided that this risk is based on sound science and technical evidence, with the scientific information to be gathered within a reasonable period of time. [Gordon Peeling, 30:1610-1615]

On the other:

> [W]e will draw attention to two environment-related trade matters only. The first concerns process and production methods, PPMs, which we believe need to be included in WTO deliberations as a "new issue." PPMs are presently not taken into consideration by the WTO. In other words, an importing country cannot discriminate on goods that are manufactured in an environmentally-destructive fashion. With its almost exclusive focus on the physical characteristics of a good, the WTO is, we believe, at odds with efforts to create rules of international commerce that encourage sustainable production and consumption. The current WTO interpretation on PPMs seems very much to protect producers rather than the public at large. We believe the process and production methods used to produce a good to be a key

> environmental concern that should in certain carefully defined circumstances be valid grounds for restricting imports. [Simon Rosenblum, 122:1215]

Clearly, environmentalists would criticize the first set of opinions above for maintaining the status quo in terms of the burden of scientific proof, which is placed on those promulgating health and environmental standards, as well as in adopting the much more narrow product characteristics basis, rather than the full production-consumption cycle, for evaluating environmental implications. However, the Committee is convinced that, if one were to step back from all the confusing detail and reflect on the broader issues at play, one would conclude that this approach provides greater administrative flexibility for countries to pursue their own environmental priorities, which may not be those of others. Consider the following situation which is likely to be a sign of the times for the future in sustainable development decision making:

> Let's all just take a decision under the World Trade Organization ... and ban the use of lead in gasoline. ... That bears a certain cost, and if you were to look at some large southeast Asian nation ... their issue for health is potable water for a population; they're incurring so many deaths per annum. ... That is their health priority ... and lead in gasoline is about 110 on their health issues list. How can they possibly move it up? They don't have the financial resources, and it would be at the expense of one of those other ... much more important issues. [Gordon Peeling, 30:1715]

Some witnesses clearly recognized the superiority of this approach:

> On the issue of trade and national environmental responsibility, it's our strongly held view that Canada's position ... must in no way undermine the sovereign ability of nations to manage their own natural resources and impose environmental regulations designed to protect these resources. ... The issue is one that requires a delicate balance. On the one hand, environmental concerns should not be used as a protectionist measure to impede or circumvent free trade provisions. On the other hand, harmonization of national objectives through multilateral environment agreements must take place in a manner that is cognizant of and integrated with the international trade regime. [Colin Isaacs, 110:915]

The Committee agrees that greater flexibility in the establishment of domestic priorities will not only prevent the use of environmental measures as disguised trade protectionism, it will also bring higher standards for the environment and we, therefore, recommend:

13. That the Government of Canada ensure that the rules governing a Free Trade Area of the Americas agreement do not in any way impair the Government's sovereign right to regulate in the public interest.

In the absence of political will to enforce MEAs, it appears that such a regime will best resolve the conflict between trade and environmental objectives.

CHAPTER 8:
CULTURE AND CULTURAL DIVERSITY IN THE AMERICAS

Culture, Diversity and Policies

In Chapter 2 the Committee referred to and provided statistics on the diversity of societies of the Western Hemisphere and, except for wealth diversity, the Committee wishes these diversities to remain much the same. As we understand it, what is being proposed in the Free Trade Area of the Americas (FTAA) is greater economic integration, not political integration or cultural assimilation. Consequently, as the Americas become more economically integrated, it is important that the hemisphere's countries retain strong domestic cultures to ensure their sovereignty and sense of identity. Indeed, the Committee holds that culture is the heart of a nation and that this is as true for other countries as it is for Canada.

We believe it's very important to develop a cultural covenant that would define culture not simply as a commodity but as a matter of national importance and to be able to remove it from whatever international trade agreements are developed. That would include, of course, the FTAA. [Megan Williams, 32:1535]

UNESCO defines culture to include cultural heritage, printed matter and literature, music and the performing arts, cinema and photography, radio and television, and socio-cultural activities. Using this definition, the revenues of Canadian cultural industries are conservatively estimated at $20 billion (1994-95), representing about 3% of the country's gross domestic product, and employing 610,000 persons on a full- and part-time basis.

The Government of Canada, as steward of our national identity, has invested public funds and other resources in the cultural sector as a method of nation-building and of promoting a multicultural society. The government has thus accepted the argument advanced by the cultural community that Canada's small market cannot by itself support world competitive firms of distinctively Canadian products. These companies simply cannot spread the large up-front financial outlay wide enough in the domestic market to be competitive on a world scale and, at the same time, be profitable given the market and financial risks they bear. Only when these Canadian products attract large foreign audiences can they be

put on a world competitive basis, but this wider acceptance often requires that these products compromise or tone down their Canadian cultural content. By definition, such a competitive market means the prospects are not good for the more successful export-oriented Canadian products to cross-subsidize distinctly Canadian cultural products. Distinctly Canadian cultural products marketed exclusively for the domestic market can only exist with large government financial and regulatory assistance, which are increasingly coming under attack from foreign interests in the wake of Canada's international trade commitments.

The Committee heard witnesses spanning the entire cultural community expressing the positive strategic value of this assistance in preserving Canadian culture and of impending demise should it be withdrawn.

> Canadian authors compete very well in the world marketplace. This reflects the merit of their work, but it also reflects the cultural encouragement they've received in the formative stages of their development. The increasing pressure to roll back existing Canadian government initiatives to protect and encourage its cultural diversity, however, threatens this formative sovereign environment in which creators learn and develop their craft. ... [Barry Grills, 32:1600]

In the formative years of Canadian cultural policies, the government almost exclusively provided subsidies, both direct and indirect, and tariff protection to achieve its cultural objectives. With time and technological developments in production and distribution, tariffs gradually disappeared, while the number and dollar amounts of subsidies increased substantially until the most recent federal budget cutbacks. Government subsidies have also of late been complemented by attractive tax and investment measures, along with regulatory measures in television, film, music and book publishing sectors.

Trade Policy Arenas and Canadian Commitments

International trade agreements vary in their treatment of cultural products and in the disciplines they impose on their signatory countries. At the multilateral level, the World Trade Organization (WTO) administers the General Agreement on Tariffs and Trade (GATT) and the General Agreement on Trade in Services (GATS). Countries that are signatories to the GATT have further negotiated the Agreement on Subsidies and Countervailing Measures (ASCMs) and the Agreement on Trade-Related Investment Measures (TRIMs) that impose a few more disciplines on them. Canada is signatory to all of these agreements, as well as to regional and bilateral agreements, most notably the North American Free Trade Agreement (NAFTA) and the Canada-United States Free Trade Agreement (CUSFTA).

The GATT 1994 subjects all goods to non-discrimination disciplines (i.e. most-favoured nation (MFN) and national treatment), although it recognizes two exceptions for cultural goods. Article IV of the GATT permits countries to establish quotas for the exhibition of domestic films, and Article XX(f) permits measures related to the protection of national treasures of "artistic, historic and archeological value." The ASCMs establishes three categories of subsidies for goods: those that are

prohibited, those that are actionable and those that are non-actionable. Prohibited subsidies would be those conditioned on export performance or on the use of domestic rather than imported inputs. Subsidies must also be paid directly to the producers, as in the case of postal subsidies to periodical producers. This means that tax credit schemes that are widely used to support audiovisual production may be considered in contravention of national treatment provisions. TRIMs prohibits the establishment of certain performance requirements as a condition for foreign investment.

The GATS subjects services, including cultural services, to its provisions. However, in this case, countries are allowed to opt out of certain national treatment and MFN obligations. Canada has taken an exemption from MFN under Article II for coproduction treaties for film and television production that it has with a number of countries. Canada, on the other hand, did not take an MFN exemption for its film distribution policy, one that grants more favourable treatment for certain U.S. distribution companies. Under Part III, Canada made no market access or national treatment commitments for any cultural services and none in the wholesale trade services sector for musical scores, audio and video recordings.

Clearly, these multilateral agreements are becoming increasingly pervasive in their coverage of traded products, expanding beyond tariff barriers to govern most forms of non-tariff barriers. This coverage has become so encompassing that some measure of overlap between agreements has created confusion over the obligations of signatories. In terms of cultural products, for example, the WTO decision on periodicals (split-run magazines) has brought to the fore the question of whether culture is a good or a service and which trade agreement applies when the product in question combines a good and a service. It has come to light that some cultural products are also considered intellectual property subject to the Agreement on Trade-Related Intellectual Property (TRIPs). The resolution of this confusion and other related matters is clearly important to Canada's cultural community, but it is also necessary for the optimal design of a country's domestic policies.

In regional and bilateral agreements, Canada has negotiated a cultural exemption. The treatment of cultural goods in the NAFTA (Annex 2106) is conditioned by Article 2005 of the CUSFTA which provides for exemption, except when there is a specific provision. The parties are thus free to intervene in support of their cultural industries at the possible cost of retaliation of "equivalent commercial effect." This exemption applies to cultural industries between Canada and the United States, and Canada and Mexico, but not between the United States and Mexico. In terms of cultural services, there are no obligations and no recourse to retaliation since there is no mention of them in the services chapter of the CUSFTA.

The Committee has two observations to make on the treatment of culture in the NAFTA and the CUSFTA that would directly relate to matters of the FTAA. The first would be that Canada was obviously unable to secure Mexican support in the NAFTA for culture as something more than a tradable commodity, perhaps because Mexico wishes to exploit the large Latino market in the United States and that the language barrier presents a formidable obstacle that allays any Mexican fears of being dominated by Hollywood or other U.S. industry interests. The second observation would be

that the exemption instrument, which according to many cultural groups is an unsatisfactory compromise, is a direct result of the lack of a meeting of minds between Canada and the United States. Our agreement to disagree on culture may have produced the exemption clause, but this instrument has limitations, since any solution pursuant to it is not governed by established rules, but by the relative power of the disputants — something we, as a mid-sized open economy, are trying to avoid.

> Exempting culture from trade agreements does not exempt cultural issues from international discipline. Without an effective institutional framework within which international trade and investment in the cultural industries takes place, Canada will experience a rising number of bilateral cultural disputes with larger and wealthier countries or blocs. In the past, the United States has taken a tough stance in cultural disputes with Canada because it was concerned with domino effects on the policies of other countries. [Keith Acheson, 96:1025]

A case in point would be the split-run magazine dispute. In the end, a negotiated solution to this dispute was found, but it involved emasculating the more discriminatory aspects of Bill C-55.[25] It also led Canada to shift its protectionist strategies away from restrictions on foreign products and towards the direct subsidization of Canadian products. The exemption option did not, therefore, exorcise protectionist cultural policies from Canadian international trade agreements and commitments.

New Technologies and Organizational Structures

In the advent of the microchip and the digital revolution, along with increasingly liberalized national markets, two predominant socio-economic transformations are taking place. These changes are globalization and convergence. Their impact has been felt in virtually all sectors of the economy, but predominantly in the cultural sector, which includes telecommunications and broadcasting industries.

Appendix 1 describes the nature and the foreseen consequences of globalization in some detail, but it suffices to say that for the cultural sector it means firms must reposition themselves to prosper in the so-called "Information Age." Cultural firms of all stripes are, directly through mergers and acquisitions and indirectly through the formation of alliances and consortia, expanding beyond their national borders to bring products to world markets. Foreign market penetration for an industry characterized by a huge up-front fixed cost structure, which means the first unit produced is very expensive while all subsequent units are a pittance by comparison, fits well into its current market-maximization, product-distribution strategies of firms. Cultural firms cobbled together in this fashion, which has also spawned multinational cultural firms, are, therefore, simultaneously breaking down national borders and "raising the bar" for commercial success.

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25 Bill C-55 was one of Canada's legislative responses to a negative WTO ruling on Canada's periodicals or split-run magazines policies. Originally, the bill would have modified these policies in a way to achieve the same objectives while trying to exploit different obligations between the GATT and the GATS.

The transmission of data, information, audio and video by digital code and compression techniques over new, higher capacity media (fibre-optic cables and the radio spectrum) is fostering the convergence of once quite distinct sectors: telephony, cable television, broadcasting (radio and television), and microprocessing industries. It has also turned the sector somewhat upside down as the longstanding perceived problem of spectrum scarcity has become a problem of content scarcity. The dominant corporate repositioning strategy to date seems to be both horizontal and vertical mergers and acquisitions. These strategies appear to be reengineering quite distinct products (books, magazines, music, film, television and radio programming, etc.) into multimedia products, while, at the same time, they attempt to transform quite distinct distribution systems (coaxial cable, telephone wire, satellites, Internet, etc.) and networks into an integrated "Information Highway."

On the cultural side, apart from lowering the cost of producing traditional products, quite a number of new cultural products are being developed in the process. Artists of all sorts are now able to express their talents through CD-ROMs, video games, virtual reality, digital animation, and interactive programming, education and training. Moreover, an online magazine or book, which is less expensive to produce than hard copy versions, will be able to integrate sound and film, thereby redefining the reading experience. A film may also have many different plots and endings that will allow interactive choice and participation by the audience, obviously redefining the film viewing experience. On the negative side, these new technologies and products increase the opportunity for theft or unauthorized use, forcing policy-makers to refocus their efforts on upgrading our domestic intellectual property laws and the TRIPs agreement. These new product forms also increasingly put into question their status as a good or service and the applicability of alternative trade agreements.

Adaptation, Strategic Responses and Policy Instruments of the Future

This new globalized environment not only imposes unique challenges on the sector, it also demands greater attention from Canadian cultural policy-makers. As one witness put it to the Committee:

> The problem is we've built up this huge and very successful Canadian broadcasting industry — production industry, music industry, movie industry — ... based on [the existing] structure ... The Internet is coming, and we're not going to be able to control what's on the Internet. So for a period of time we need to make sure we allow the Canadian industry to transform itself, so it goes from being the broadcasting industry it is today to a new media industry that will compete on a global basis, because we're not going to be able to control ... what is brought into Canadian homes. [Willie Grieve, 124:925]

What this witness is suggesting is that Canadian regulatory policies designed to have foreign products cross-subsidize Canadian products, as orchestrated by the Canadian Radio-television and Telecommunications Commission (by way of Canadian content rules, product bundling strategies, "must carry" requirements and other licensing conditions), as well as other public policy instruments will become less effective with greater program choice and expanded bandwidth signal delivery systems. This inability to effectively regulate the content and transmissions of cultural products over

the Internet has consequences and, in the event of producers migrating to the less burdensome systems, a rejigging of public policies is advised. The Canadian content imperative shifts, therefore, from ensuring access by regulation to ensuring access by fostering firms with solid reputations for quality productions. According to one expert in the field, we, as a nation, may be losing ground precisely because we appear improperly focused.

> The issue ... is the lack of attention being paid in Canada to the need to develop a strong content industry on our own terms. While we worry about international agreements, it may well be that all our efforts are irrelevant if we can't take advantage of the new opportunities the new economy has to offer. It should be of concern that while we in Canada worry more about content, the U.S. is actually doing more to ensure that they have a strong content industry. [Ken Stein, 32:1550]

Certainly, cultural policies based on quite distinct sectors will have to be redesigned in the face of the blurring of their traditional boundaries. Indeed, more attention will have to be paid to providing a "level playing field" between once distinct industries, as policy leakages may arise when some foreign producers choose to circumvent the more restrictive product markets and distribution methods for the least restrictive ones. Canada could only be the loser if genuine business entrepreneurship is diverted in this way to socially wasteful bureaucratic entrepreneurship.

From a proactive policy perspective, selective cultural instruments ripe for the increasingly internationalized market environment have been suggested:

> Excise taxes or user fees can be used on a non-discriminatory basis to provide user-pay funding to cultural creators. This approach is already embodied in the Canadian Television Fund and could likely applied to other cultural sectors as well. GATT Article IV provides for domestic film screen quotas in movie theatres. This article has never been practically applied, but the concept has been carried over into radio and television domestic content requirements, so far without any clear rules and without unanimous approval within the trade organizations. Nonetheless, the concept of reserving some cultural shelf space for domestic content does exist, and it needs to be refined and embedded in a new instrument. [Dennis Browne, 96:1000]

Finally, Canada's cultural policy-makers can no longer rely so heavily on traditional protectionist measures, as many Canadian firms are likely poised to enter foreign markets. The openness of domestic markets now becomes an important consideration to factor into the policy calculus, if foreign markets are to remain open to Canadian cultural products. Indeed, Canada is at a crossroads in the cultural-trade policies nexus. The cultural SAGIT suggests that Canada should champion a new cultural trade instrument.

> Canada [should] take the lead in developing a new international instrument that would lay out the ground rules for cultural policy ... I've set out the five essential elements of this new instrument. They would be the following: recognize the importance of cultural diversity; acknowledge that cultural goods and services are significantly different from other products; acknowledge that domestic measures and policies intended to ensure access to a variety of indigenous cultural products are significantly different from other policies and measures; set out rules on the kinds of domestic regulatory and other measures the countries can and cannot use to

> enhance cultural and linguistic diversity; and establish how trade disciplines would apply or not apply to cultural measures that meet the agreed-upon rules. [Ken Stein, 32:1545]

What remains unclear to the Commitee in the conception of this new instrument would be its legal status and institutional residence. Would this instrument be a separate treaty outside the purview of the WTO or a sectoral agreement like that for telecommunications and financial services within the WTO? The Committee was given the preference of one witness (Ken Stein, 32:1645) who favoured the former under the friendly confines of UNESCO. However, the effectiveness of this option to segregate cultural products from International trade commitments is questionable. A new treaty also means that we are creating a new forum from which disputants might shop. As Canadians witnessed in our recent split-run magazine dispute with the United States, this option might only lead to more confusion and to costly management of the issues at stake. In the alternative route, as a sectoral agreement, the WTO may be able to better manage these conflicts. In any event, much work is still needed to flesh out the effectiveness of alternative mechanisms.

While this new cultural instrument, with the above and other details worked out, would likely be the ideal instrument in this new global trading environment, it is by no means a certainty, given that countries like the United States would have to be signatories for it to be effective — at least from a Canadian perspective. One culture international trade expert put it succinctly to the Committee:

> In an international trade negotiation, Canada can forge alliances with other like-minded countries that will improve the chances of developing a framework of values and rules that trumps the jungle of bilateral interactions. ... [T]he mystery is not why countries like Canada should support a WTO agreement, but why the lords of the jungle — the United States, Japan or the EU — should. [Keith Acheson, 96:1025]

The Committee feels that a similar covenant should also be sought as part of a regional undertaking such as the FTAA. However, notwithstanding U.S. opposition, there are additional complexities to forging such a covenant in the Americas region.

> [W]e're working to organize a parallel conference in Mexico — parallel to the ministers — for international cultural organizations. We're having a very difficult time because the NGOs in Mexico are almost non-existent in the cultural area. Any connection we have is tied in very closely with government, and the Mexican government is not welcoming a conference of NGOs. ... I think we'll experience the same problem as we widen the circle and start working with other cultural organizations in Latin and South America. The type of development we see here in Canada, with a very complex cultural infrastructure, just doesn't exist in those countries. [Megan Williams, 32:1535]

The Committee further acknowledges that none of the other economic integration treaties — MERCOSUR, Andean Community, CARICOM, CACM — treat the cultural sector different from other sectors, except in terms of foreign investment and ownership requirements. Regulations on content are nowhere to be found. Moreover, despite significant exports of Brazilian and Argentinian audiovisual products to the smaller markets of Paraguay and Uruguay, with combined market shares

of the former as overwhelming as that of the United States within Canada's market, there is not even a hint of cultural protectionism emanating from either of the latter two South American countries. While the Committee finds this lack of concern for retaining and defending one's cultural sector disturbing to Canada's interests, as well as posing a threat to hemispheric cultural diversity, one witness offered a conciliatory strategic purpose for the cultural covenant approach in the FTAA:

> [T]he FTAA will be a Mexican standoff, if I can use another metaphor. So nothing will happen, but a lot can be learned. ... [R]elationships can be forged with Caribbean nations, with Latin American nations ... preparing us for the possibility of getting the Americans to the table at such a new instrument, which is a rather bold leadership role for Canada. [Sandy Crawley, 96:1135]

The Committee duly notes these views and recommends:

14. That the Government of Canada preserve Canada's cultural identity through the continuation of its present cultural exemption policies while working to establish a new international instrument on culture along the lines contained in the Cultural SAGIT Report, if feasible within the World Trade Organization framework, and to seek alliances amongst the nations of the Americas for achieving this instrument.

PART III: THE NEGOTIATING ISSUES, PRIORITIES AND STRATEGIES

CHAPTER 9:
TRADE IN MERCHANDISE GOODS: MARKET ACCESS, TARIFFS AND NON-TARIFF BARRIERS

Market Access

Globalization by definition means that national boundaries are no longer the impediments they once were, at least for conducting business and in transacting for most goods and services. In the hopes of reaping the benefits of globalization, governments across the world have agreed multilaterally, regionally and bilaterally to liberalize their markets. Domestic policies everywhere are, therefore, undergoing tremendous scrutiny to ensure that all signatories to these agreements are living up to their market access commitments. Indeed, the next decade will likely uncover and expose numerous inconsistencies between domestic industrial policies and trade commitments which will undoubtedly prove to be contentious in their resolution.

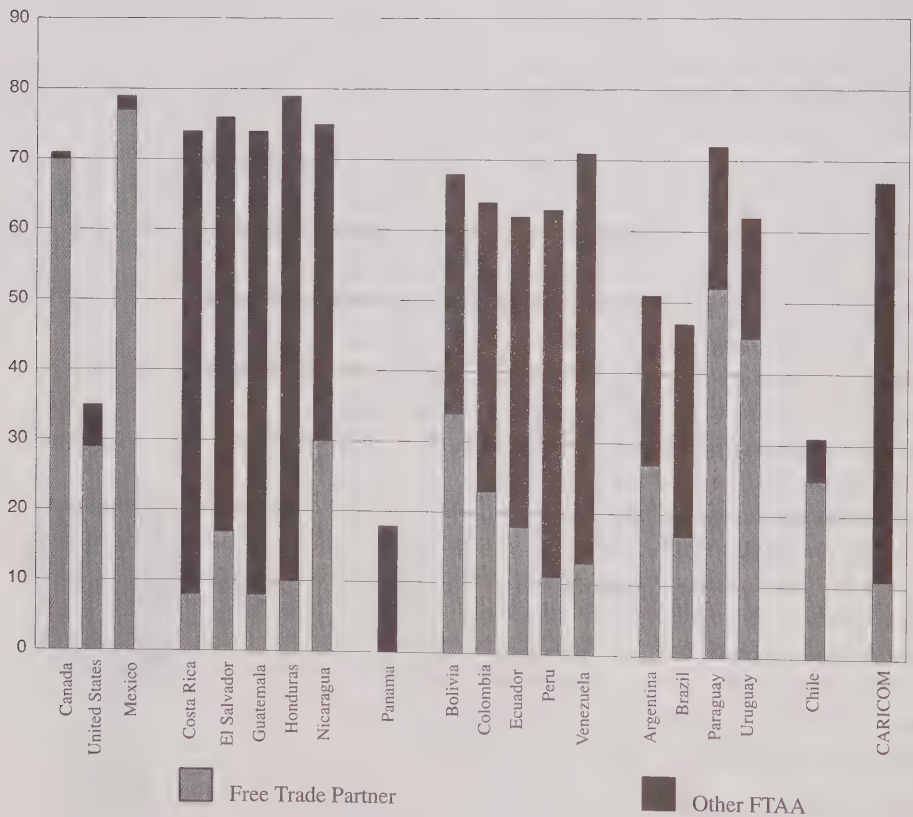
We support the greatest possible degree of tariff reduction or elimination; the reduction or removal of the maximum number of non-tariff barriers; the most efficient possible administration of customs and border controls; and the highest possible degree of fairness and transparency in procurement and other administrative processes. In our view, such measures will create huge new opportunities for us and for other Canadian companies. [Robert Weese, 31:1635]

While market access issues may not be as intellectually appealing as the new issues on the trade agenda (i.e. competition policy, intellectual property and investment), they nevertheless form the backbone of the international trading system — as they no doubt will in the Americas. The Free Trade Area of the Americas (FTAA) agreement, if it comes to fruition, will be a preferential agreement, whereby the industrial tariff imposed on virtually all products originating elsewhere in the Americas will eventually be zero. The issues that will dominate this aspect of the negotiations will be the starting point of a country's tariff schedule and the length of time it takes to get this schedule down to target zero. Technical barriers to trade, such as voluntary product standards, which are often based on domestic or local customs, will obviously have to be made to better align themselves on an international basis, and domestic regulations across the hemisphere will also eventually have to conform to international standards.

At this point it would be informative to measure the market access implications of an FTAA. Figure 9.1 provides us a starting point (however crude). The stacked-bar diagram suggests that, for most countries negotiating the FTAA, imports from the Americas represent between 60-80% of their

total imports; only the United States, Panama and Chile do not rely extensively on imports from countries of the Americas. The first bar in this stacked-bar diagram represents the imports from countries that are free trade or customs union partners. These imports enter the country almost unobstructed by any trade barrier today, or will soon do so under terms of existing trade agreements. The second bar of the diagram represents the imports from others that would be party to the FTAA (some of this trade might also face little obstruction). As such, the larger the first bar relative to the second means that the extension of unfettered market access by way of an FTAA agreement would have relatively little consequence in terms of lost tariff revenue and possibly in terms of any increase in the intensity of foreign competition that the domestic industry would face. The converse is also true.

FIGURE 9.1
MARKET ACCESS: IMPORTS 1997



CARICOM includes data from only 8 of 14 member countries.

Source: International Monetary Fund, *Direction of Trade Statistics Yearbook 1998.*

Figure 9.1 reveals that the extension of free trade privileges throughout the Americas will, in general terms, have relatively little impact on Canada, Mexico, the United States and Chile. Their free trade partners already make up the bulk of imports into their country. The rest of the Americas, by contrast, will have to make significant adjustments, particularly CARICOM and Central American countries which rely extensively on imports from others in the hemisphere that are not their free trade partners. It is fair, then, to expect that the current unbalanced market access situation across the Americas will provide for difficult negotiations.

Market access issues are the subject of the next sections of this Chapter and they traditionally cover topics like tariffs and non-tariff barriers for all merchandise goods, where these latter barriers revolve around issues such as: customs procedures, including customs valuation, rules of origin and other border measures; standards and technical barriers to trade, not the least of which include sanitary and phytosanitary measures, but also voluntary product standards and regulations; anti-dumping; subsidies and countervail; and safeguards. The Committee, however, will limit this discussion to all merchandise goods other than agricultural goods, where market access issues relating to the latter category of goods are deferred to the next chapter. Sanitary and phytosanitary measures will, therefore, be covered there as well. Since Chapter 4 dealt with trade facilitation issues, including customs procedures, border measures will also secure, in this chapter at least, a carve-out status.

Tariffs

Tariffs will obviously be a significant element of the negotiations on market access, possibly the most important in terms of liberalizing trade in the Americas. To do justice to this issue though, one must really put the tariff in its proper historical context. The tariff was originally devised as a means of raising government revenue. It has always and everywhere been a huge success because, as a hidden tax on an unorganized group such as consumers with positive competitiveness impacts on selective domestic competitors in the home market, it aroused little, if any, domestic public opposition. Needless to say, very little attention was paid to its implications for economic growth; which are not favourable. Nowhere is this situation more apparent than in the Caribbean, where tariffs are the principal source of government revenue and the economy is an industrial laggard. In the case of Latin America, however, the tariff was also seen as a means of fostering foreign direct investment (FDI) under their import-substitution strategies. Little did they know then that trade and FDI are often complementary and that tariffs may only serve to limit their prospects for acquiring FDI in the longer term. They know different today (see Chapter 13 and Appendix 2).

The economic benefits of trade liberalization are diffuse and pervasive, and, once realized by the developed countries of the world, they have banded together in ever-increasing number to substantially reduced tariffs multilaterally over the past three decades, particularly in the last decade. For instance, Canada's weighted-average tariff has declined from just over 4% in 1987 to just a little more than 1% in 1997. In the same period, the weighted-average tariff on dutiable imports declined from 11.28% to 5.03%. As of January 1, 1998, Canada and the United States have eliminated all

industrial tariffs as per the North American Free Trade Agreement (NAFTA). Pursuant to the NAFTA, Canada and Mexico will eliminate virtually all tariffs imposed on each other by 2003. By this same time, Canada and Chile will have eliminated all industrial tariffs imposed on each other according to the Canada-Chile Free Trade Agreement.

Relative to most of the Americas, Canada has been very aggressive in its liberalization efforts. Indeed, the Minister of International Trade was quick to mention the asymmetric tariff situation in the Americas.

> It should be noted that our exporters still face relatively high tariff barriers in the region, and that's why a liberalized trade regime would be of benefit. For instance, in the automotive sector we face 70% common MERCOSUR tariffs; in machinery, 20% to 25% tariffs in key South American markets; in paper, it's 12% to 16% in the MERCOSUR economies; and plastic goods look at a 14% to 18% range in our key markets. The FTA would bring down those walls for us, because the walls are already broken down the other way. Countries of the Americas and the Caribbean already face low tariffs in Canada, with many qualifying for a general preferential tariff or other preferential tariff treatment. [Hon. Sergio Marchi, 24:1535]

The Canadian Pulp and Paper Association had something to add on the strategic nature of the tariff rate structure in Latin America, as well as its economic impact on Canada's forestry sector.

> [T]ariffs in Latin America remain very high. In some countries, duties are in the double digits and can add as much as $50 per tonne to the cost of Canadian shipments. Most of these duties are applied to valued-added paper grades, which leads to tariff escalation, a problem that denies Canadian producers the opportunity to realize optimal economic returns from their paper resources. [Joel Neuheimer, 30:1615]

The Committee would like to reiterate its approval of the single undertaking nature of an eventual FTAA agreement as this feature should lead to greater success in realizing the end game objective of zero industrial tariffs imposed on all trade within the Americas. There are, therefore, two remaining issues: (1) the starting point or base-year tariff schedule; and (2) the pace of tariff elimination or tariff phase-out period.

In terms of the first issue, the Committee is of the view that to provide "real" tariff reductions the base year should precede the date that formal negotiations begin. This choice would help mitigate against strategic manipulations to gain more breathing space between today's tariff schedule and target zero. The Committee therefore recommends:

15. That the Government of Canada establish an appropriate base year upon which to commence reductions on all industrial product tariffs for each signatory of the Free Trade Area of the Americas agreement and that this date maximize Canadian interests.

The Committee was advised by many to follow the example of the NAFTA in determining the length of the tariff phase-out period. The Committee notes one such appeal in particular:

> [T]he free trade agreement negotiations [should] pursue a similar path of phasing out of tariffs, as was established under the free trade agreement with the United States and under the North American Free Trade Agreement, with the process for accelerated tariff reductions and zero-for-zero tariff reductions for the FTAA signatories over an established and reasonable period of time, much as both of those previously mentioned agreements allowed for some flexibility — within a 10-year timeframe — for moving to zero tariff rates. [Gordon Peeling, 30:1610]

The Committee has also been made aware that the maximum 10-year timeframe has been made somewhat of a precedent at the World Trade Organization (WTO) and we, therefore, recommend:

16. That the Government of Canada seek a maximum 10-year timeframe in which to phase out all tariffs imposed on all industrial products originating in Free Trade Area of the Americas signatory countries and that it show the flexibility necessary to obtain accelerated tariff reductions whenever possible.

Anti-Dumping Measures

Anti-dumping measures are one form of a non-tariff barrier to trade that, when carried out according to a well-defined set of rules approved by the WTO, is permitted. In general terms, the dumping of products is said to occur when exporters sell their products in foreign markets at prices lower than the price charged in the home market (referred to as its "normal value") or at prices below the cost of production. WTO rules, as set out in the WTO Anti-Dumping Agreement, permit countries to impose anti-dumping duties equivalent to the margin of dumping if it is found through a process of investigation that these imported products are causing, or threatening to cause, material injury to domestic producers of the same product. The NAFTA affirms the existing rights and obligations as set out in the WTO agreement.

The WTO Anti-Dumping Agreement applies to the all WTO members and virtually all countries that are negotiating the FTAA have or will soon have anti-dumping laws on their books that are consistent with the WTO agreement. Furthermore, in the case of some customs union agreements, an anti-dumping action taken in one country could have extraterritorial application across the customs union region. With regards to Canada, it was in fact the first country in the world to promulgate anti-dumping legislation dating back to 1904. Today, however, the *Special Import Measures Act of 1984* governs the use of anti-dumping measures. Finance Canada is responsible for the legislation and policy formulation, while Revenue Canada and the Canadian International Trade Tribunal are jointly responsible for conducting the investigations.

In terms of the Americas, there are a number of frequent users of anti-dumping measures; their incidence has increased significantly in the past few years. The countries and the number of investigations they have undertaken in the past 10 years are provided by the WTO Secretariat: the United States (391), Canada (188), Mexico (188), Argentina (123), Brazil (97), Peru (14), Venezuela (12), Chile (9), Costa Rica (5) and Guatemala (1).

The Committee was provided a few comments on the current state of affairs of anti-dumping. They were largely directed at one of two broad issues. The first issue dealt with the potential for merging anti-dumping provisions with that of predatory pricing provisions of competition policy; the Committee defers this discussion to Chapter 15. The second issue dealt with the increased application of anti-dumping measures of late as an apparent substitute for the Uruguay Round reductions in tariff and other non-tariff trade barriers. The main thrust of the arguments advanced was to seek additional ways of stemming the flow of these protectionist actions, but no concrete or specific recommendation was ventured.

> Minister Marchi has made it clear that he sees curbing the abuse of anti-dumping, countervailing duties, and safeguard actions as a priority in future WTO negotiations. One of the reasons he wants to do that is because of the proliferation of these types of actions. It's widely seen that these actions are merely a new form of protectionism. They've replaced the old system of tariffs and are actually very costly to the world trading system. [Eugene Beaulieu, 125:855-900]

The Committee is of the opinion that, since it is the United States and the European Union that are the most likely to resort to anti-dumping measures of particular concern to Canada, we would best achieve our goals at a broader forum than is found at the FTAA negotiating table. The Committee recommends:

17. That the Government of Canada aggressively pursue refinements in the procedures of anti-dumping measures at the multilateral level with the view to improving them.

Subsidies and Countervail Measures

Disciplines on the use of subsidies are covered by the WTO Agreement on Subsidies and Countervail Measures (ASCMs). The ASCMs has two main objectives: (1) it disciplines governments in their use of subsidies in order to limit their distortionary impact on international trade; and (2) it establishes the rules governing a country's unilateral imposition of a special form of duty known as a countervail measure to offset the injury inflicted on the domestic industry by the importation of subsidized products.

WTO rules governing the use of countervail measures are similar to that of anti-dumping measures; the primary difference being that the investigations pursuant to countervail measures focus on the behaviour of governments, while anti-dumping investigations focus on the pricing behaviour of individual companies. The WTO establishes and defines three types of subsidies, which are often referred to as the "traffic light" rules. Some subsidies are prohibited (red light) such as export subsidies (the exception being when applied to agricultural products); others are "actionable" (amber light) such as subsidies that are found to be specific or targeting an enterprise; and yet others are "non-actionable" (green light) such as general subsidies for research and development, regional assistance, etc.

Witnesses before the Committee were generally supportive of the goals of the WTO's subsidy and countervail measures, although complaints about the clarity of definitions used in determining the classification of subsidies were voiced.

> Looking at the agreement on subsidies and countervailing duties ... Canada should concentrate its efforts ... on improving and clarifying existing provisions regarding the definition of the subsidy concept and the conditions for imposing trade sanctions. To be countervailable or subject to trade sanctions, a subsidy must be specific. That is, it must be limited to certain enterprises or industries within the jurisdiction of the granting authority. [Gilbert Gagné,110:1355]

The general satisfaction of the public with the WTO's current subsidies and countervail measures framework prompts the Committee to recommend:

18. That the Government of Canada seek to establish a subsidy and countervail measures framework at the multilateral level.

Technical Barriers to Trade

Standards-related measures, which are usually applied to protect health, the environment or the consumer, include mandatory technical regulations, voluntary standards and conformity assessment procedures. It has generally been the opinion, in Canada and elsewhere, that these measures should not be allowed to unjustifiably discriminate against foreign products. The WTO Technical Barriers to Trade (TBT) Agreement thus sets out the international rights and obligations of member countries with respect to these standard-related measures as they affect trade. Essentially, the TBT recognizes the right of countries to establish their own standards, but requires that members not apply them more rigorously on imported products than domestic products.

Canada has done well by this agreement, being one of the first to initiate a WTO TBT dispute and to successfully challenge French regulations dealing with the labeling of scallops. Canada has also challenged France over its ban on the use of chrysotile asbestos.

While the Committee has dealt with this issue at some length in terms of the environment and in the next chapter with respect to sanitary and phytosanitary measures, we also solicited views on their general application.

> Canada also has an excellent opportunity within this process to guard against the potential for any non-tariff barriers to become a threat to our future market access in the region. Non-tariff barriers are technical regulations or requirements that can provide for discriminating treatment of imported foreign goods versus domestically produced goods. Building on the disciplines already within the World Trade Organization agreements, Canada should take advantage of this opportunity to seek further discipline in areas such as standards development and use to ensure that these tools cannot be misused for protectionist purposes. [Joel Neuheimer, 30:1620]

And

> We also recommend that the negotiations for the free trade agreement of the Americas address the issue of trade-distorting technical barriers that can impede market access. All measures related to technical barriers to trade under the free trade agreement of the Americas must be WTO consistent, in our view, and they must be justified on the basis of scientifically sound risk assessment and consideration of risk management options. [Gordon Peeling, 30:1610]

The Committee concurs and recommends:

19. That the Government of Canada seek to establish a Free Trade Area of the Americas agreement that incorporates rules on technical barriers to trade that are consistent with our international obligations.

Safeguards

Safeguards are temporary trade measures applied by a government on an emergency basis against increased imports of a particular good that is causing, or threatening to cause, serious injury to its domestic industry producing like or directly competitive products. Safeguard actions must comply with the requirements of Article XIX of the GATT 1994 and the WTO Agreement on Safeguards. Canada and the United States committed in its free trade agreement to exclude each other from global safeguard actions under GATT Article XIX unless imports from the other party were "substantial" and "contributing importantly" to the serious injury or threat thereof caused by increased imports. This standard was carried over to the NAFTA.

The Committee was informed that WTO safeguard actions have so far had little impact on Canadian exports. The Committee recommends:

20. That the Government of Canada seek to establish a Free Trade Area of the Americas agreement that incorporates safeguards consistent with the standards established in the North American Free Trade Agreement.

CHAPTER 10:
AGRICULTURE AND AGRI-FOOD SECTOR

Trade Developments and Objectives

The Canadian agri-food sector's propensity to export of 30% of its production is a clear indication that agricultural trade is very important for the sector's development. For certain products, in particular oilseeds and grain, nearly 90% of which are exported, trade is not only important, it is vital.

Canada's share of world trade in agricultural products averaged 3% between 1960 and 1996, falling beneath this figure in the late-1970s, 1980s and early-1990s. These fluctuations were directly related to the volatile conditions of grain markets. However, the global agricultural market of the 1990s is not what it was in the 1970s and 1980s, when it was dominated by unprocessed bulk products. International trade is now based on high value-added processed products whose development is more than ever driven by consumer needs. Canada's agricultural export markets have also changed with the dismantling of the Soviet Union, the European Union's rise as an agricultural exporting power and, in particular, with the implementation of trade liberalization agreements.

Agriculture has traditionally been left to aside in multilateral and bilateral trade negotiations, but the Canada-U.S. Free Trade Agreement (CUSFTA) of 1988, the North American Free Trade Agreement (NAFTA) of 1994 and, in particular, the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) have paved the way for a major reform in agricultural trade. Of course, genuine free trade has not yet been realized, but the trade liberalization process is at least well underway.

> In preparing for further agricultural negotiations, it's important to recognize that the emerging policy environment is driving economies toward more openness, the integration of food systems, and greater competition. There is a need for flexibility in systems and in policies in order to allow for regional specialization and two-way trade or trade within the hemisphere. ... In other words, I believe the objective of the FTAA, as it was in NAFTA and the FTA before it, is to establish a free trade area as quickly as possible. [William Miner, 29:1605]

> *[I]t's important to develop Canada's approach, in my view, on both a multilateral and a regional basis, as this reflects the reality of the way in which markets are developing today. Some agricultural objectives and issues can be advanced through regional negotiations while others require multilateral solutions in order to be effective. As market integration continues and more processed foods and food components move across borders, trade agreements can assist the process of adjustment to the new trading environment. [William Miner, 29:1600]*

At the same time, one must understand why agricultural stakeholders are reluctant to enter negotiations at two levels. Experience has shown that countries often begin bilateral and multilateral trade negotiations in agriculture by discarding basic economic principles. As a result, they forge agreements that create more unfairness for selective sectors, which make for lasting trade irritants. The Canadian sugar industry is a perfect example.

Agricultural trade is now global and, even in cases where there is a high degree of economic and trade integration between two countries, no producer country is sheltered from the policies of the other country. This is precisely the case of the Canadian sugar industry, which is historically important to the economy, and is competitive and unsubsidized, relying extensively on its main export market, the United States. In world markets, however, the Canadian sugar industry must face major players, like the European Union and the United States, which benefit to a large extent from preferential sugar policies that protect their domestic markets.

In the 1980s, the United States limited Canadian sugar imports to approximately 10,000 tonnes per year. After the CUSFTA was signed, Canada's sugar shipments approached 35,000 tonnes, but, at the time of the NAFTA, Canada-U.S. sugar trade took a back seat to a U.S.-Mexico agreement, which granted a preferential allocation to Mexico. Then, with the Uruguay Round, the United States took advantage of vague rules in the Agreement on Agriculture to establish a global allocation of 22,000 tonnes in which Canada's allotted share was highly uncertain. It took a bilateral agreement in October 1997 to secure access of 10,300 tonnes for refined sugar, approximately 0.1% of the U.S. sugar market estimated at 10 million tonnes. This agreement can hardly be considered a victory since it merely prevents further erosion of Canada's access to the U.S. market. Even for products containing more than 10% sugar, the United States invokes various measures, including rules of origin on refined and unrefined sugar, to restrict entry of Canadian products into the U.S.

The case of sugar is one of many examples that clearly show how a series of trade liberalization agreements can lead to absurd situations that, in fact, impede trade. When witnesses told the Committee that it was preferable to give precedence to the multilateral trade negotiations (MTN) of the World Trade Organization (WTO) rather than to those of the Free Trade Area of the Americas (FTAA), their motive was to prevent a repetition of the sugar case. However, Canadian agricultural producers recognize that trade agreements of recent years have created promising foreign market opportunities for their growing industry and, therefore, endorse the strategy of the Canadian Agri-Food Marketing Council (CAMC), which aims to gain a 4% share of world agricultural trade by the year 2005, equivalent to $40 billion worth of exports. Yet Canadian producers are still concerned with numerous inequities that persist in agricultural trade, in particular with respect to market access and export subsidies, and feel there is often a lack of coordination amongst previously signed trade agreements. Moreover, this was Canadian producers' principal message to the Committee: the FTAA agricultural negotiations are an important exercise, but must be subordinated to the WTO multilateral trade negotiations.

Canada's Position at the WTO Multilateral Trade Negotiations

In June 1999, this Committee tabled a detailed report on the upcoming Multilateral Trade Negotiations at the WTO. In August, the federal government announced its initial position on agriculture for these negotiations, which is based on a certain consensus and is said to reflect the general commercial interests of the agriculture and agri-food sector. However, some interest groups maintain that Canada does not go far enough, particularly with respect to market access, tariff reductions for supply management products and in the reform of state trading enterprises. The main elements of Canada's position are discussed below.

Market Access: To improve market access for Canadian agri-food products, Canada will seek the zero-zero option; that is, the total elimination of tariffs and export subsidies for industries such as oilseeds and grains for which this strategy appears desirable. It will also seek to clarify the tariff quota rules, in particular by demanding actual minimum access equivalent to 5% of current consumption by product, not by product class. In addition, the Canadian position stipulates that minimum access allocations by country should be eliminated because they are often used as a barrier to trade. Finally, for the purpose of facilitating market access, in-quota tariffs should be eliminated where prohibitive out-quota tariffs limit access to in-quota volume.

Export Subsidies: Canada's second principal position in the upcoming MTN will be the elimination of all export subsidies for agricultural products, while ensuring that government export credit and guarantee programs, promotional activities and certain food aid programs do not distort agricultural trade.

Domestic Support: Canada will ask its WTO trade partners to set a ceiling for all types of support, but will demand maximum reduction, indeed even elimination, of production support measures, which are the most highly disruptive of trade, such as blue category measures (see "Agricultural Subsidies" in the Glossary). Canada will attempt to clarify green category criteria to ensure that its support measures have neutral effects on production and trade, while pursuing the objective of having all participating countries recognize once and for all that "green" measures must be subject to countervailing duties. Finally, Canada will seek the elimination of certain elements of the "peace clause"; that is, Article 13 of the Agreement on Agriculture, which restricts the right to appeal under the dispute settlement mechanism in cases where domestic support measures and export subsidies distort free competition and thus deny or impede market access.

Export Restrictions and Taxes: Canada will seek an agreement to subject export taxes and restrictions on agricultural products to effective disciplinary rules. For example, Canada will propose the inclusion of agri-food products in trade embargos and the use of export restrictions, which effectively reduce the proportion of agricultural products that may be exported on the basis of a standard reference period.

Sanitary and Phytosanitary Measures: Canada does not want the Agreement on Sanitary and Phytosanitary Measures opened up. Its approach will instead be to have member countries

acknowledge the soundness of this agreement, which is based on the recognition of scientific principles and on the use of international standards.

Biotechnology: Recognizing the recent emergence of biotechnology in agriculture and related concerns and interests of agricultural producers and consumers, Canada will request the creation of a WTO Working Group, which would be responsible for reviewing the various aspects related to trade in biotechnology products and, if necessary, inform negotiators of those aspects which deserve a place in the MTN.

State Trading Enterprises: The objective of Canada's initial position will be to have the operations of agricultural product import monopolies comply with strict rules so that they cannot short-circuit market access commitments. As for export monopolies, such as the Canadian Wheat Board, Canada is prepared to discuss new disciplinary rules, but will require that they apply to both public and private monopolies.

The Agricultural Market of the Americas

Canada and the United States have privileged agricultural trade relations which have few equivalents elsewhere in the world. Over the 1995-1998 reference period, the United States was the main market for Canadian agri-food shipments, receiving 52% of Canada's total agri-food exports. Not been outdone, 60% of Canadian agri-food imports came from the United States in this period.

By comparison, the share of Canadian agri-food exports to Mexico averaged 2.2% in this period, whereas the share of agri-food imports from Mexico represented 2.4%. Brazil accounts for only 1.3% of our total exports and only 2.4% of imports. The respective shares of Canadian exports and imports in agri-food trade between Canada and Chile are equivalent and amount to approximately 1% of our total.

However, agriculture remains a field of exceptions that makes for a constant source of friction, even between major trading partners such as Canada and the United States. Commenting on the preparations of various countries for the next MTN of the WTO, the U.S. Secretary of Agriculture remarked that no one should be so naïve as to believe that we will have perfectly open markets. As a consequence, despite its name, we have reason to doubt that the creation of an FTAA will lead to genuine free trade in agriculture, even though it would be desirable to promote more open markets amongst the Americas as a counterweight to the rapidly growing European market. For Canada, greater trade liberalization amongst the Americas would mainly mean direct competition, not with trading partners that have major outlets to offer, but with competitor countries with relatively small domestic markets seeking their share of the enormous U.S. agri-food market.

Becoming more competitive is one of the goals of market liberalization. Indeed, if certain agricultural sectors see in the FTAA a strategy to enhance their competitiveness, it might then be interesting to determine what opportunities these negotiations afford, even if they are limited on a sectoral or product-by-product basis. The WTO's December 1998 report on Canada's international

trade policies and practices concludes that Canada's export-based strategy, together with sound macroeconomic policies, has contributed much to Canada's solid economic performance. However, the report mentions that Canada's excessive dependence on the U.S. market may be a problem in the longer term. While conceding priority to the WTO's MTN to further expand the liberalization of global agricultural trade, the FTAA negotiations may be seen as a means to force Canada's agri-food industry, or at least certain sectors, to become more competitive. Such a development would, in turn, enable Canada to diversify its export markets more quickly than other export countries. From this perspective, Canada should take advantage of these regional negotiations to give certain sectors a chance to improve their ability to compete beyond what the WTO's MTN has to offer.

Witnesses told us that the main negotiating points in agriculture for the FTAA negotiations would be the same for the WTO's MTN. In the minds of a vast majority of witnesses, the WTO negotiations are a necessary priority, whereas a small minority mentioned that the FTAA negotiations should be used to advance certain issues, in particular, discriminatory pricing practices and subsidies.

The Committee does not want to paint itself into a corner by favouring the FTAA negotiations over those of the WTO. However, since the government has developed a position for the WTO's multilateral negotiations, the Committee recommends:

21. That the Government of Canada negotiate broader trade liberalization in agricultural products in the context of the World Trade Organization and seek to obtain more concessions, more quickly, in the context of the Free Trade Area of the Americas.

CHAPTER 11:
THE COMMERCIAL SERVICES SECTOR

Commercial Services and Trade

There is tremendous potential for expansion of Canadian services exports, along with the creation of skilled jobs throughout all parts of Canada, if priority is given to issues affecting service exporters. [Dorothy Riddle, 121:905]

In the 1940s, it was first proposed that the economy was composed of three sectors: the primary, the secondary and the tertiary. Services were lumped among other activities in this last sector; they were, in economic terms, treated as something like a "residual," with little strategic forethought put into them. While it may seem that this characterization of services was rather unflattering, although it is maintained even in some quarters today, it is a marked improvement over characterizations held in the eighteenth and nineteenth centuries when they were thought to be a wholly unproductive pursuit. Indeed, earlier definitions of exactly what services were are hard to come by; at that time, they were generally perceived to be intangible, invisible and perishable, being labour intensive and requiring simultaneous production and consumption.

Needless to say, things have changed. Since the 1960s there has been a definite and momentous structural shift in developed economies, and to a lesser extent in developing economies, away from primary production and manufacturing towards services. Services now account for the largest share of domestic production. In Canada, they represented 67% of the gross domestic product (GDP) and 73% of employment in 1997. Services are now recognized to be as diversified as goods in their form and can be labour intensive (haircut) or capital intensive (telecommunications); they can be perishable (cleaning) or durable (an engineered edifice); they can be produced and consumed simultaneously (theatrical show) or severed and storable (animated movie). Finally, services are increasingly being combined with goods, which has led to an estimation problem; they are generally believed to be underestimated since their value is hard to disentangle from that of the good.

Services are also tradable products. In 1997, world trade in commercial services, on a balance of payments basis, accounted for around one-fifth of world exports for goods and services, amounting to over U.S.$1 trillion. Canada's share of this trade was about $40 billion in exports. While the United

States is the principal market for Canadian services, as is the case for goods, Canadian services exports are more diversified. In 1996, Brazil, Sweden, Taiwan, Mexico, the Philippines, Singapore, and Thailand were the largest growing service export markets for Canada. Given that the total value of domestic and international transactions in services in the global economy has been estimated to be as high as US$14 trillion, the economic potential arising from increased global liberalization of trade in services is important.

This trade, however, encounters many barriers, probably more than those faced by goods. Although, unlike international trade in goods, the barriers affecting trade in services rarely take the form of tariffs or border measures. Barriers can be applied to prevent a foreign service provider from entering a foreign market or, once the foreign service provider has entered the market, other types of barriers may exist or be erected. These can include restrictions on a firm's ability to establish operations in a foreign market; regulations that are not clear, change without warning, or not administered in a uniform manner; or entry requirements that limit the ability of foreign individuals to enter the market to provide their services. Market access in the context of agreements affecting trade in services, therefore, means the ability of foreign services to compete relatively unimpeded with similar domestically produced services.

Domestic regulations play an important role in increasing or limiting the ability of foreign firms to provide their services in an export market. Many of these relate to qualification requirements and procedures, technical standards, and licensing arrangements and can reduce market access by not being applied in a transparent and consistent manner. While these regulations are often in place to achieve specific domestic objectives, it is important to ensure that they are based on objective and transparent criteria and are not more burdensome or discriminatory against foreign suppliers.

International agreements sometimes include provisions that promote mutual recognition agreements (MRAs) between governments and their domestic professional organizations dealing with licences or certifications, education, or relevant experience of individuals that provide services. These organizations can be governmental or non-governmental bodies depending on the service sector concerned. Trade agreements such as the North American Free Trade Agreement (NAFTA) and the General Agreement on Trade in Services (GATS) allow for the development of MRAs between members of the agreements, but generally require that non-members also be allowed to enter into the MRA if they are willing to meet the same conditions. The issue of whether the GATS should incorporate rules relating to establishing MRAs will probably be on the agenda for the next round of negotiations at the World Trade Organization (WTO).

The General Agreement on Trade in Services (GATS)

The GATS is the first multilateral agreement governing the trade in services and was one of the major accomplishments of the Uruguay Round. Prior to the GATS, access to services markets was not secured by contractual commitments. The GATS sets out the framework for the trade in services around the world, imposes rules that all WTO member countries must abide by, and provides a legal structure for dispute settlement should difficulties arise. The GATS contains three main features:

first, it provides a framework of general obligations, rules, and disciplines; second, it sets out special conditions in annexes relating to individual regulated service sectors such as telecommunications and financial services; and, third, it contains national schedules of specific market liberalizing access commitments and lists of exemptions to the most-favoured nation (MFN) principle.

In general, the framework relates to all internationally traded services however they are delivered. The four modes of supply are:

Cross-border supply — Service is mailed, electronically sent, or otherwise transported across a border.

Consumption abroad — A consumer travels across a national border to consume a service. Examples include a tourist or a student.

Commercial Presence — A service provider establishes a foreign-based corporation, joint venture, partnership, or other establishment to supply services to foreign persons.

Presence of natural persons — An individual either alone or as an employee of a service provider travels to another country to deliver a service.

It requires the application of the national treatment and MFN principles, provides for transparency in respect of relevant laws, regulations, recognition requirements and administrative decisions relating to the supply of services, and limits restrictions on international payments for current transactions under the Agreement. Member countries are able to identify exemptions to the MFN obligation for a limited number of services. For example, an existing preferential bilateral arrangement may be maintained, provided the MFN exemption is recorded.

The annexes are an integral part of the Agreement. The annex on the movement of people permits governments to negotiate commitments respecting temporary stays to provide a service. It does not cover permanent employment or residence. The Agreement on Basic Telecommunications significantly liberalizes trade in basic telecommunication services through a set of principles covering matters such as competition safeguards, interconnection guarantees, transparent licensing processes, and the independence of regulators. The Agreement on Financial Services provides for specific commitments as opposed to general obligations, taking into account the specific characteristics of financial services. The most significant in this regard is that, in domestic regulations, members shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial supplier or to ensure the integrity or stability of the financial system. Except to safeguard the balance of payments, the GATS does not allow members to apply restrictions on international financial transfers and payments for current transactions relating to their specific commitments. Finally, the annex on air transport services covers aircraft repair and maintenance services, marketing of air transport services, and computer reservation services.

With respect to the schedules, each government registered in its national schedule initial market access commitments and the limitations it wished to maintain in respect of the 11 broad service sectors. These undertakings are described both in terms of permissible modes of supply and with respect to the conditions required for market access. Once a commitment has been made by a member country in a specific service sector or sub-sector, that country is no longer merely bound by the general MFN obligations found in the GATS, but also by a "national treatment" obligation, meaning that market access must be granted under the same conditions allowed to domestic service suppliers. The national treatment obligation is applicable only to scheduled commitments and only if reservations are not made to the contrary. It is a powerful trade liberalization vehicle, given that once it is granted, a member is obliged to treat foreign services and service suppliers in a manner no less favourable than domestic services and service suppliers. The treatment granted need not be identical so long as it does not worsen the competitive conditions faced by foreign services and service suppliers. The market access restrictions are broadly defined as: limitations on the number of service suppliers or service operations; limits on the value of transactions or assets foreign firms may have; limitations on the number of persons that may be employed either in a specific sector or by a specific firm; restrictions on the legal form through which a service supplier may supply a service (i.e. joint-venture only); and limits on foreign investment.

Commercial Services and the FTAA

The consensus view of experts in the field is that services are no different than goods in that their potential for trade can, in part, be determined by comparative advantage and factor endowment considerations, whereby the critical factors of production can be either or both physical or human capital. Accordingly, the more abundant this capital, the more competitive the domestic industry can be and the more advantageous it is for the nation to export services that use these factors intensively. There is also an indication that in select industries (banking, insurance, telecommunications) that scale economies are present and can influence the relative competitiveness of the domestic industry where global markets exist.

Several of the Committee's witnesses pointed to Canada's under-representation in the global trade of services and suggested that this poor performance could be improved.

> With one of the largest service sectors to GDP, Canada is well positioned to benefit from this trend [to traded services] ... It has recognized strengths in a number of key service sectors — telecommunications, computer services, transportation, some aspects of culture and entertainment, finance, engineering, professional services, as well as education and health care [Gerry L. Lambert, Submission]

Along the above lines of comparative advantage and in addition to these cited sectors, Canada's large geography and small and disperse population suggest to the Committee that the tele-health care and tele-education services fields represent potential export industries for this country. Additional services industries were identified by some of our witnesses as important to our interests in the context of the Americas.

> I think it's also important to build on and improve the scope and security of Canada's access to markets and its NAFTA partners. I think we can achieve that as well through the FTAA. Of specific concern to our members are issues such as extending the NAFTA or extending free trade within the NAFTA region to cover financial, telecommunications, and shipping services, and freer entry of professionals, and sub-national procurement issues. [Jayson Myers, 30:1615]

The Committee understands that the government has already launched a process designed to identify Canada's specific priority interests in export markets in terms of countries, types of services, methods of delivering a service, movement of people, and impediments or barriers to doing business (private or governmental). This Committee believes that the Americas should be considered of strategic importance to our services sector and we, therefore, recommend:

22. That the Government of Canada focus Canada's priority interests in the services export markets, bearing in mind the importance of the Americas.

The Committee's reading of the GATS is that it was a first attempt at bringing services into the ambit of trade rules and disciplines. It is a small step forward that will require extensive incremental improvements before it ever approaches the quality and coverage of the General Agreeement on Tariffs and Trade (GATT). If the GATS proceeds as did the GATT 1947, it should not disappoint. In terms of the FTAA, however, improvements on the GATS should not be that difficult to find and should be attempted right away. The Committee recommends:

23. That the Government of Canada focus negotiations on services of the Free Trade Area of the Americas agreement on broadening and deepening the scope of commitments of most-favoured nation and national treatment beyond that obtained in the General Agreement on Trade in Services, perhaps taking a sectoral approach.

CHAPTER 12:
GOVERNMENT PROCUREMENT

Many governments intentionally isolate their procurement practices from the competitive forces of international trade, despite its potential for offering taxpayers the best value for money. As a result, taxpayers must bear the higher costs associated with procurement transacted in a non-competitive market (i.e. preference margins, selective tendering, etc.). Governments actively pursue a preference for domestic procurement presumably because its social benefits are perceived to exceed its social costs. Developing countries apparently see little hope of obtaining export contracts to supply foreign governments, but see concrete advantages in giving preferential treatment to their domestic producers, thereby fostering economic development.

We support the greatest possible degree of tariff reduction or elimination; ... and the highest possible degree of fairness and transparency in procurement and other administrative processes. In our view such measures will create huge opportunities for us and for other Canadian companies. We compete and win against the best on all projects around the world ... For that business, clear and consistent global rules, fair treatment, and efficient administrative practices are critical components of business. [Robert Weese, 31:1635]

Government Procurement Agreements

Trade liberalization in government procurement was largely ignored until 1979, when the first Government Procurement Agreement (GPA) was signed under the Tokyo Round of the General Agreement on Tariffs and Trade (GATT). Although the scope of public sector procurement was significantly broadened under the Uruguay Round, few additional countries acceded to the GPA, by which, since it is a plurilateral agreement, not all World Trade Organization (WTO) members are bound. In the Western Hemisphere, only Canada and the United States have signed the GPA. Argentina, Chile and Colombia have observer status, and Panama is in the process of negotiating accession.

Elsewhere in the Western Hemisphere, trade liberalization in government procurement is also covered under the North American Free Trade Ageement (NAFTA), the Group-of-Three Treaty (Mexico, Colombia and Venezuela) and bilateral agreements between Mexico and Bolivia and Mexico and Costa Rica. Thus, of the 34 countries that are contemplating a Free Trade Area of the Americas (FTAA), only seven — Bolivia, Canada, Colombia, Costa Rica, Mexico, the United States and Venezuela — have signed trade agreements pertaining to government procurement.

According to an analysis conducted by the Inter-American Development Bank, government procurement agreements in the Western Hemisphere have similar basic principles and structures, but vary with respect to coverage, thresholds and other specific provisions. All contain provisions requiring signatories to treat products and services of other signatories in a non-discriminatory fashion (i.e. no less favourably than domestic output and producers).

All contain provisions governing rules of origin, tendering procedures, and monitoring and enforcement mechanisms, including bid challenge procedures. Probably their greatest variations are with respect to the entities and the level of procurement covered. Though all of the agreements cover goods, services and construction services, signatories are permitted to exclude specific entities from coverage. The GPA covers national and sub-national entities, while the other agreements specific to countries in the Western Hemisphere apply strictly to national entities.[26] Canada has offered to extend GPA coverage to provincial governments, subject to provincial approval, if other signatories, notably the United States, would curtail their use of set-aside exceptions. Neither has happened. Provincial governments have not given their approval and the United States continues to resist eliminating exceptions for small business set-asides. Consequently, Canada does not have access to the procurement markets of sub-national entities in other GPA signatory countries.

Of all government procurement agreements in the Western Hemisphere, the NAFTA has contract thresholds that provide suppliers in Canada, Mexico and the United States with the greatest degree of access to national government procurement markets. In terms of Canada and the United States, the agreement covers government procurement contracts for goods worth at least US$25,000. In all other cases, the agreement pertains to government procurement contracts for goods and non-construction services worth at least US$50,000. The minimum threshold applicable to government enterprises is US$250,000. In terms of construction services, the agreement covers federal government and federal enterprise contracts worth at least US$6.5 million and $8 million, respectively. Eventually, NAFTA-like thresholds will also apply to Bolivia and Costa Rica under their bilateral agreements with Mexico.[27]

The Group-of-Three Treaty covers procurement contracts worth US$50,000 for federal entities and US$250,000 for government enterprises. In reality, however, market access is constrained by the existence of "reservations," which, in 1996, applied to 45% of federal procurement in all three signatory countries. These reservations are supposed to be reduced every two years until the year 2004, after which, a reservation of 5% on total annual purchases will exist indefinitely and may be assigned to any of the federal entities or government enterprises listed in the Annexes to the Agreement.

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26 The bilateral agreements between Mexico and Bolivia and Mexico and Costa Rica may be extended to include sub-national governments on a voluntary and reciprocal basis.

27 These agreements call for a reduction in contract value thresholds for goods and services to NAFTA levels by the year 2000.

Although it is the broadest in scope, the GPA has contract thresholds providing access to national government procurement markets that is more limited than anywhere else in the Western Hemisphere. The GPA covers public purchases of goods and services valued at SDR130,000[28] (US$172,700) or more at the federal level and SDR200,000 (US$265,800) or more at the sub-national level. In terms of national government enterprises, Canada's threshold is SDR355,000 (US$471,700). Irrespective of the public entity, the agreement applies to construction services worth SDR5,000,000 (US$6,645,000) or more.

While the overall size of the market for national government procurement in the Western Hemisphere is not easily calculated, national government purchases are believed to amount, on average, to roughly 10% of a country's gross domestic product (GDP).[29] In 1997, aggregate GDP in the Western Hemisphere was estimated to be approximately US$10.7 trillion. This implies that national government procurement in this part of the world totalled an estimated US$1.1 trillion in 1997. When this is added to the purchases of sub-national governments and enterprises, which in Canada's case greatly exceed those of federal entities, the significance of government procurement in the Western Hemisphere grows markedly. A significant amount of this market, however, is typically excluded under formal agreements, as indicated above.[30] Moreover, from a Canadian perspective, suppliers already have access to the lion's share of national government procurement in the Western Hemisphere via the NAFTA, which is thought to cover more than 80% of national government procurement in the Western Hemisphere. If Brazil and Argentina were included, this would rise to about 95%.[31]

Since a large share of the market for national government procurement in the Western Hemisphere already enjoys freer trade, the greatest scope for expanding trade liberalization in this area, at least from a Canadian perspective, appears to depend on an expansion of coverage to sub-national levels of government. This is somewhat unlikely, however, because of the unwillingness of the United States to curtail small business offsets, a lack of interest among Canadian provincial governments, and the reluctance of most Latin American countries to sign the GPA.

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28 SDRs (Special Drawing Rights) were converted to U.S. dollars using a daily average of U.S. currency units (1.329) per SDR for the first half of July 1999.

29 Of course, this percentage varies from country to country and is thought to be higher in developing economies (see Sam Laird, *Transition Economies, Business and the WTO*, World Trade Organization, TPRD-98-03, May 1998, p. 1).

30 For instance, according to a briefing note prepared by the Department of Foreign Affairs and International Trade pertaining to the GPA and future WTO negotiations, the GPA is estimated to cover in excess of $250 billion of public procurement expenditures, an amount that is well below 10% of aggregate GDP in signatory countries.

31 According to Brazil's *1996 Trade Policy Review*, it has no intention, at least in the near term, of signing the GPA (see WT/TPR/S/21, March 1996, p. 102).

Government Procurement and the FTAA

Very little attention was paid to the issue of government procurement during Committee hearings. Even though an agreement in this area may not be anticipated, the Committee believes that Canadian negotiators must nevertheless be prepared. As noted in the Committee's Report on the WTO, municipal governments have not been involved in government procurement negotiations, even though their impact is felt at the local level. At the very least, the federal government should consult other levels of government prior to negotiations. One witness also expressed the view that Canada should play a lead role in promoting greater transparency of government procurement.

> The transparency agenda relates to better governance; to fairer and more open processes and to less corruption; to a business environment that is transparent, where business is done with a high degree of integrity and where a legal system that gives confidence that the rules will be enforced consistently. [Robert Weese, 31:1645]

In view of the limited commitment among non-NAFTA countries in the Western Hemisphere to liberalize their government procurement markets, the Committee believes that Canada should adopt a flexible approach to this issue. The Committee therefore recommends:

24. That the Government of Canada's position regarding government procurement and the Free Trade Area of the Americas be similar to that adopted in the Government Procurement Agreement. A Free Trade Area of the Americas agreement on government procurement should be plurilateral and cover the broadest possible range of goods and services (including construction). In addition, a Free Trade Area of the Americas agreement on government procurement should provide for periodic review to have it broadened and strengthened.

CHAPTER 13: INVESTMENT

Foreign Direct Investment Developments

[A] mechanism that has caused fiscal stress is the intensification of bidding wars among governments — national and subnational — to offer subsidies and tax and regulatory incentives to transnational investors. This has also increased the pressure to crowd out social spending. [Bruce Campbell, 27:1555]

International investment, particularly direct investment, has increased dramatically over the past decade and, as a result, the global stock of foreign direct investment (FDI) has risen from US$1 trillion in 1987 to US$3.5 trillion in 1997. This investment activity primarily involves about 53,000 multinational enterprises with almost 450,000 affiliates. Since this growth has substantially outperformed that of both the world's gross domestic product (GDP) and world trade, the ratio of inward plus outward FDI stocks to global GDP is now 21% and foreign affiliate exports make up one-third of world exports.

These statistics make for a very telling story: the businesses of developed countries have, in general, internationalized their activities, weaving an intricate web of linked corporate activities around the globe in pursuit of being a more competitive player. The source of increased competitiveness would be the unique location and production advantages offered by the host country, but both the host and home country also gain from this cross-border investment:

> [B]oth inward and outward foreign direct investment is conveying substantial economic benefits on both the host and home country. These benefits stem from increased specialization with resulting productivity gains, the faster spread of new technology to host countries, the salutory effects of increased competition on domestic companies and the ability to realize scale and scope economies for smaller companies. [Steven Globerman, Submission, p. 2]

The economic effects of these new global strategies extend beyond corporate competitiveness. They have significantly transformed the international trading scene in two major ways. First, the international economy of the postwar years, which largely featured cross-border transactions of goods and services between unrelated firms or individual residents of different countries, has given way to a much more integrated trading environment. Parts or

components of the more complex manufactured products are increasingly being traded across political borders between non-arm's length corporate entities for assembly nearer to their points of consumption. Second, trade and investment, which at one time were thought to be strictly alternative means of accessing foreign markets — the latter to get around trade barriers — have proven to be complements now that these barriers have come down. Together, these two facts mean that a country's trade performance is increasingly dependent on its FDI activity.

Canada has been no stranger to these developments. Indeed, FDI is of increasing importance to Canada both as a host country and especially as an outward investor. The outward stock of FDI originating from Canada has risen fivefold from US$22.6 billion in 1980 to US$137.7 billion in 1997, while its inward stock has risen more than two and a half times from US$54.2 billion to US$137.1 billion over the same period. Most of this investment, highlighted in Table 2.1, takes place within the Americas, with the United States partaking in the lion's share. The result has been a hemispheric hub-and-spoke investment network, whereby the United States is the primary hub and Canada is a secondary hub in exporting capital to Latin America and the Caribbean.

An FTAA Investment Agreement

The investors of developed countries are, as was demonstrated by the Organization for Economic Co-operation and Development's Multilateral Agreement on Investment (MAI) initiative, looking for greater institutional protection of their foreign-based assets — protection beyond that afforded them by the Agreement on Trade-Related Investment Measures (TRIMs) and the General Agreement on Trade in Services (GATS) which are administered by the World Trade Organization (WTO). Canada, as a net FDI exporter, is also seeking additional investment rules — fair and equitable rules, given that they are reciprocally conferred — to complement existing trade rules.

In the context of the Americas, Canada would logically seek to rationalize its foreign investment protection agreements (FIPAs) with countries in the region, as well as expand coverage of their provisions to countries with which it does not have an investment treaty. Box 13.1 provides the general sorts of protection measures that Canada would be seeking.

To assess the incremental protection that these provisions would provide Canada's foreign investors, the Committee made use of the Inter-American Development Bank's study on foreign investment laws and policies of the region. By way of summary, almost all countries have constitutions that guarantee private property, free enterprise and equal treatment of nationals and foreigners. Although all countries place limits on these property rights, most importantly they provide grounds for expropriation in cases where there is a public necessity, public utility, social purpose for property, promotion of agrarian reform, national security, etc. The regulations on compensation for expropriation differ substantially, but as a general rule it is set at market value or loss incurred either by legal proceedings in the absence of an agreement or by administrative mechanisms; though the definitions of "market value" and "loss incurred" themselves are a source of

uncertainty. In some cases, for reason of equity, no compensation may be offered. Compensation is usually paid in advance of taking possession.

Almost all countries have a statute on foreign investment that has been modified since 1990, with a government agency responsible for administering its provisions. Most countries do not place restrictions on remittances, though in exceptional cases they are imposed on capital repatriation. Transfers of foreign investment capital could take several forms. In general, the modalities are: freely convertible foreign currency, tangible property, technology, loans associated with foreign investment, intangible goods, and capitalization of credits or profits. Every country has some sectors of the economy reserved exclusively for the state and are, therefore, not subject to foreign participation; on a hemispheric basis, the list is long.

Box 13.1
Issues Covered in the NAFTA, the Canada-Chile Trade Agreement, and Canada's Bilateral Foreign Investment Protection Agreements

- definitions of investment and investor;
- minimum standard of treatment: fair and equitable treatment in accordance with international law;
- most-favored nation commitments: non-discriminatory treatment of Canadian investors in a country relative to foreign investors from other countries;
- national treatment: non-discriminatory treatment of Canadian investors in a country relative to domestic investors in the same country;
- rights to transfer funds related to investments freely and without delay, both into and out of a country;
- rules on expropriation and compensation;
  commitments on permitting investors the free choice of senior management for their investments;
- disciplines on performance requirements imposed by a host government on an investor, such as domestic content rules, trade balancing, and technology transfer requirements;
- rights to adopt environmental measures consistent with the principles of the agreement;
- general and specific exceptions to obligations to safeguard particular measures;
- transparency commitments with respect to government policies towards foreign investors;
- enforcement through dispute settlement, including both state to state and state to investor arrangements.

Source: Industry Canada Website, http://strategis.ic.gc.ca

Generally, there are no performance requirements for foreign investors except in specific circumstances; these circumstances vary significantly throughout the region. Foreign and domestic firms are taxed at the same rate, the lowest applied to profits in the region being 25%. Special taxes on foreign investment occur only in special cases: free trade zones, external debt conversion programs, etc. Canada has double taxation treaties with: Argentina, Barbados, Brazil, Dominican Republic, Guyana, Jamaica, Mexico, Trinidad and Tobago and the United States. In terms of dispute settlement, foreign investors are, in most cases, not afforded any additional recourse beyond that which is assured to nationals, except as provided in the North American Free Trade Agreement (NAFTA).

It is not news to claim that the lowering of political risks to foreign investors would lead them to be less demanding in the returns on investment they seek and thereby stimulate greater cross-border

capital flows. What is news is that, since discarding their import-substitution strategies, Latin American countries have through free trade and customs union agreements realized greater flows of FDI. Some countries have adopted special investment incentives to attract even more foreign capital.

> Latin American officials repeatedly link the existence of trade agreements of different kinds — such as free trade areas, customs unions, and common markets — ... and the inflow of foreign direct investments to a particular region. For instance, ... the Communidade Andina ... have a list of results ... and I quote, "The considerable increase in FDIs, more than 8 times going from U.S.$1.14 billion in 1990 to U.S.$9.792 billion in 1997..." Another example is found in a paper written to ALADI by the Brazilian ambassador, José Artur Denot Medeiros. ... [H]e states that "the increase in the capacity to attract FDIs" — foreign direct investments — "and the growing importance of inter Latin American countries' investment flows" are acting, in conjunction with trade agreements, as "integrating factors." Clearly, the predominant view is that these agreements are generating both trade and investments. [Annette Hester, 31:1610]

The danger here is in going too far in terms of providing incentives to attract foreign investment, most often it takes the form of subsidies and special tax breaks. Should things get out of hand and bidding wars take place, a "race to the bottom" scenario in social program spending could indeed come to fruition.

Since an FTAA agreement would mean extending protection rights to investors of other signatory members and that these rights to some extent involve a loss in national sovereignty, the Committee is well aware that their conveyance is not simply to be maximized. A careful balance must be struck between what is fair to multinationals and what is fair to the state. Indeed, the Committee was advised many times by the public, as was the case in its deliberations on the MAI and the WTO Millennium Round, to make sure we do not turn an investment agreement into a "charter of corporate rights."

> In many ways they strengthen the power of corporations. In fact, in many ways the rules are designed by international corporations. They strengthen the power of investments. They give them the tools to challenge democratic governments, undermining governments that are acting in the public interest. [Bob White, 122:1025]

There are at least two issues here. First, it has been argued that the inclusion of an investor-state dispute settlement mechanism, such as is provided in Chapter 11 of the NAFTA, arms foreign investors with an additional legal vehicle not available to domestic investors. Second, some suggest that such an investor-state mechanism undermines the ability of governments to maintain public services, such as health care on a non-commercial basis, the environment, and health and safety.

> In terms of foreign direct investment, this has been mentioned before, but the NAFTA dispute-settlement mechanism, chapter 11, has raised a number of problems. I think those stem from the application of commercial arbitration rules on issues of public policy, which is probably not the best way to arbitrate issues of public policy. This isn't necessarily an indictment of direct access on the part of non-state actors to dispute settlement, but rather the suggestion that a closer look be taken at process issues such as transparency. [Julie Soloway, 122:950]

Yet others insist that these assertions of a "race to the bottom" scenario in social program spending by way of an investor-state dispute settlement clause are unfounded. While Chapter 11 of the NAFTA is currently undergoing several challenges, not one case has yet been decided one way or the other. The Committee reminds those who cited the Ethyl Corporation's case against the Government of Canada that the MMT legislative ban violated Canada's interprovincial agreements and, therefore, the proverbial NAFTA jury is still out. Moreover, the representatives of corporate interests are not totally in disagreement with these opponents on the intended purpose of an investor-state dispute settlement clause. They have consistently argued the position that any investor-state dispute settlement process should not be a source of government paralysis on important matters of public interest.

> [T]he critical concept of 'expropriation' of foreign investment which triggers the binding dispute settlement mechanism needs to be better defined. Bona fide and legitimate areas of regulation and law-making by governments, where there is no real taking away of an asset involved, should be carved out from the agreement. Other aspects of the investor-state provisions, including issues of secrecy and lack of openness in the process, as under the current rules in the NAFTA, must also be addressed. [Jayson Myers, Submission]

The Committee agrees and recommends:

25. In view of the concerns arising from the interpretation of 'expropriation' in the investor-state provisions of the North American Free Trade Agreement (Chapter 11), the Government of Canada should ensure the incorporation of a narrowly-defined concept of expropriation in any negotiations on investment in the Free Trade Area of the Americas agreement.

Given the tremendous growth in FDI over the past two decades, it is worth questioning the need to seek greater protection beyond that extended in Canada's FIPAs. Some net benefit analysis is required before such steps are taken. At the same time, since most of this growth has occurred between developed countries and an FTAA would primarily be made up developing countries, the Committee sees the FTAA as an opportunity to extend the coverage of existing investment protections, as contained in Canada's current FIPAs, in the Americas beyond the seven countries where they are in force today. The Committee recommends:

26. That the Government of Canada seek a Free Trade Area of the Americas agreement that includes investment provisions modelled on Canada's current Foreign Investment Protection Agreements with Latin American and Caribbean countries.

CHAPTER 14:
INTELLECTUAL PROPERTY RIGHTS

Knowledge, Intellectual Property and International Trade

Although Canada has signed the treaties, we have not yet developed domestic policy on those treaties. It is key, before entering into ... negotiations, for Canada to have a domestic policy on these issues rather than to have a policy imposed on us by our trading partners. [Glen Bloom, 112:1020]

Knowledge has always been understood to be one of a number of driving forces behind economic growth. Just how the former might turn into the latter remains somewhat elusive, but further inquiry of late by many scholars has met with success in finding and piecing together some integral parts of the puzzle. It is now widely acknowledged that a country's ability to compete successfully in a globalized economy increasingly impinges on its capacity to innovate. The accumulation of knowledge through inventions and its diffusion across the business community allows firms to incorporate ever-effective technologies, production processes and new products in meeting consumer needs. That there is mounting evidence that the standard of living of citizens of the modern economy, which is essentially a knowledge-based one, turns on their productivity performances through the investments they make in research and development (R&D) is seldom questioned anymore. Indeed, competitiveness, output per head and innovation are the business catch phrases at the turn of the millennium.

A quintessential industrial tool fostering innovation has been the creation of the intellectual property right. Society has long recognized that information, when held privately (and in the right hands) and not publicly, is a source of personal wealth. On the other hand, when this information is broadly available, it will likely be put to use by others and thus it will produce little, if any, personal wealth, at least relatively speaking. Without the ability to capture the wealth flowing from any novel piece of information, the individual has little incentive to disclose it, entrepreneurs will, therefore, not be able to make use of it and the economy will not be what it could otherwise be. Therefore, making use of the fact that all knowledge has characteristics of a public good, whereby one's use of it does not affect another's productive use of same, the creation of a property right in knowledge rewards innovative efforts commensurate with its commercial

prospects. From society's perspective, the granting of the power to exclude others from the use of the knowledge uncovered and embodied in the property right without compensation being paid to the individual responsible for its discovery creates a tournament amongst rivals to innovate in return for the public disclosure of the discovery. Private information is therefore profitably made public; only its use thereof remains proprietary.

Intellectual rights encompass copyright and neighbouring rights, trademarks, geographical indications, industrial designs and models, patents, layout designs of integrated circuits, and protection of undisclosed information (see Box 14.1). They all possess the following attributes: eligibility for the right; the duration of the right; the breadth of the right; the novelty requirement; and access requirements. In short, the longer the duration, the greater the breadth, the more burdensome the novelty requirement, or the less imposing are the access requirements entailed in the right, the harder it will be to subsequently invent around this discovery, the less likely there will be follow-on inventions, and more potential competitors will be stifled. The converse is also true. Though this does not mean the high-technology markets will be prone to monopoly as alternative products, technologies and production processes will remain a perennial source of competition.

Box 14.1
Intellectual Property Rights Typology

Patent: is a property right in a new invention which grants its owner (patentee) the exclusive use, offer for sale, sale or importation of the product, technology or process (usually extends for a 20-year period from the date of filing (invention in the United States)).

Copyright and Neighbouring Rights: are moral rights, which include the right of authorship of works (expression of knowledge, databases, etc.), that protect its holders from infringement and unsanctioned reproduction and dissemination (usually extends for the author's lifetime and 50 years following death).

Integrated Circuit Design Rights: subject to certain limitations, exclusive rights to reproduce, import and distribute for commercial purposes (usually for 8 to 10-year periods).

Industrial Design Rights: grants protection for new and original designs of products (usually for a 10-year period).

Trademarks: are distinctive marks used to identify and distinguish the goods or services of a business that protect its owners from infringement (usually for a minimum period of 7 years).

Geographical Indication Rights: are protections extended to owners of goods of a given origin, where the good's quality, reputation or any other of its characteristics is attributable to its geographical origin.

Trade Secrecy Law: adds legal processes and sanctions to the strategies available to an owner of information for preventing trespass by others.

A tournament of the sort created by an intellectual property right is not without its costs to society. All incentive systems for innovation, including the intellectual property right, suffer in varying measures from the ensuing racing environment created. First on this list would be that the "winner-take-all" riches of the tournament often leads to duplicative and wasteful R&D. Second, the

power to exclude others results in a less than optimal pace of technological diffusion; but without the right to exclude, there will often be nothing to diffuse and a small share in a big pie can often be more rewarding than a big share of a small pie. For this reason, an effective intellectual property rights regime is best accompanied by a strong and effective competition policy regime.

In a modern developed economy, a knowledge-based economy, the fact that there will be too much competition in R&D activities and too little competition in the use of the discoveries has increasingly become irrelevant. The simple facts are that the net benefits of an intellectual property rights regime are now demonstrably positive. The developing economies, however, think otherwise and the associated issues have proven to be a source of tension when integrating both types of societies for the purpose of trade and investment. They, in general, would prefer to "free ride" the royalty payments embodied in the right for the simple reason that they have historically been net importers of technologies and rights-protected products. Before dealing with these issues in the context of the FTAA, more information on the current state of international intellectual property rights treaties is advisable.

The Agreement on Trade-Related Aspects of Intellectual Property (TRIPs)

International treaties on intellectual property rights have existed since the end of the 19th century. They have dealt in turn with industrial property, trademarks, industrials designs and models, patents, copyright, etc. The World Intellectual Property Organization (WIPO), created under the 1967 Convention establishing the World Intellectual Property Organization, became the international organization responsible for enforcing the treaties on intellectual property in effect at that time.[32] Since 1970, the year the Convention came into force, the WIPO has been the forum in which the development of existing treaties and the negotiation of new treaties are discussed. The participants in those treaties have long criticized the fact that the WIPO has no mechanism to force compliance.[33] The application of treaties has always been voluntary.

The participants in the Uruguay Round of negotiations agreed that the time had come to change the situation and force the application of some of these treaties. The TRIPs agreement, described as the most comprehensive agreement on intellectual property, came into being with the conclusion of the Uruguay Round of multilateral trade talks. In contrast to the WIPO treaties, the TRIPs agreement required the members to implement and meet the minimum standards it prescribed.

The TRIPs agreement is not, strictly speaking, a trade liberalization agreement, as it does not prescribe measures designed to open up markets and facilitate free trade. However, it does facilitate

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32 The WIPO replaced the international organization called the United International Bureaux for the Protection of Intellectual Property, which included the international administrative bureau created by the 1883 Paris Convention for the Protection of Intellectual Property and the bureau created by the 1886 Bern Convention for the Protection of Literary and Artistic Works. See *World Intellectual Property Organization*, Geneva, WIPO, July 1998.

33 B.K. Zutshi, "Bringing TRIPS into the Multilateral Trading System," in Jagdish Bhagwati and Mathias Hirsch (ed.), *The Uruguay Round and Beyond: Essays in Honor of Arthur Dunkel*, The University of Michigan Press, n.d., p. 41.

free trade in that it prescribes measures for protecting intellectual property rights within the context of more open markets.

The TRIPs agreement deals with three main elements:

1. the establishment of standards in the area of intellectual property rights;

2. the integration of the standards into the member countries' legislation and the creation of an internal mechanism for enforcing the standards; and

3. the application of dispute settlement procedures and rules to disputes between members over implementation of the agreement.

Some of the provisions in the TRIPs agreement apply to all seven target areas of intellectual property rights (national treatment, MFN treatment), while others set standards applicable to specific areas. The seven areas in question are: copyright and neighbouring rights; trademarks; geographical indications; industrial designs and models; patents; layout designs of integrated circuits; and protection of undisclosed information. The TRIPs agreement also deals with the control of anti-competitive practices in contractual licences.

While other WTO agreements came into effect on January 1, 1995, the members had an extra year to apply the TRIPs agreement, that is, until January 1, 1996. The additional time allowed many developed countries to adapt their legislation to the prescribed standards, if they had not already done so, and to set up the administrative structures needed to ensure that intellectual property rights would be respected within their jurisdiction. Developing countries and economies in transition were given 5 years to implement the TRIPs agreement, while the least developed countries were given 11 years.

Intellectual Property Rights Regimes and the FTAA

The Committee understands that a number of countries in the Americas still have until 2006 to improve their intellectual property rights regime to the TRIPs standard (i.e. Ecuador and Panama). There are still others in the hemisphere that are laggards in terms of implementing their existing obligations under the TRIPs (Argentina for one). Nevertheless, the Committee accepts as a basic principle that intellectual work deserves appropriate acknowledgement and remuneration, not unlike other types of work such as physical effort and capital investment. The first question that must then be answered is: Is the TRIPs agreement sufficient to Canada's needs? In this vein, we were given an interpretation of how the TRIPs agreement came about and what it accomplished.

> [T]he nub of the [TRIPs] deal was that it was a package deal. The United States itself would provide market access and would pressure the European Community to grant the same in the areas of agriculture and textiles, in exchange for many of the developing countries agreeing to an international standard for intellectual property rights protection. The TRIPs agreement, building on the principles of the Paris and Berne conventions — that's on patents and copyright — obliged signatories to adhere to an international baseline for standards of protection for all areas

> of intellectual property: patents, trademarks, copyright. Second, TRIPs required effective enforcement measures, both at the border and internally. Third, signatories must adhere to the dispute resolution provisions of the World Trade Organization. That was a very critical decision, to have disputes outside of the normal World Intellectual Property Organization and in the WTO. [Owen Lippert, 112:935]

The second question to answer is: Whether Canada should side with the Americans and advocate a position that the FTAA agreement should improve upon the TRIPs agreement or side with most Latin American countries and advocate the position that the TRIPs agreement standard is sufficient? The opinions provided to the Committee, although few, were generally favourable to the former.

> There can be little doubt that intellectual property is key for the millennium on issues of competitiveness and is key to ensure that Canadian companies succeed not only in Canada, but in the global marketplace. There is a strong need to ensure that Canada's intellectual property laws foster the development of intellectual property in Canada and foster the development of intellectual property business in Canada. In addition, there's a need to ensure that there are adequate and effective international standards and norms in intellectual property protection. [Glen Bloom, 112:1015]

More specifically, it was suggested that:

> The FTAA IPR negotiations should move on to tackle thornier issues. ... These issues include compulsory licensing, cultural exemptions, "pipeline protections, higher life forms, new plant varieties, information network systems, trade secrets, geographical exhaustion of rights, and a Hemispheric Intellectual Property Council. If these issues were addressed, the possibility exists of devising not just a TRIPs Plus, but a NAFTA Plus agreement which could set the international standard for much of the next century. [Owen Lippert, Submission, p. 63]

But two caveats were also advanced. The first relates to the relatively new issue posed by biotechnology and the surrounding environmental and moral issues.

> Canada will be seeking an intellectual property chapter in the FTAA. ... Canada has a unique role ... to do with ... [the] patentability of life forms. ... At this time, in fact, the precedent case is moving through the Canadian courts; it is the application by Harvard University for a patent on its genetically engineered mouse, the Harvard "oncomouse," as it's called. It is genetically engineered to be predisposed to develop cancer for the purposes of research. The fact that Canada has not yet followed the American route in giving exclusive ownership of higher life forms is an international precedent of quite great importance ... There are many controversies associated with it, including whether patenting of life forms conflicts with the obligations of countries, including Canada, under the UN Convention on Biological Diversity. ... I would simply like to bring to your attention the fact that the question of patenting life forms in Canada has not been the subject of broad public debate. [Michelle Swenarchuk, 30:1630-1635]

The second caveat relates to the application of dispute settlement to intellectual property rights associated with cultural products.

> Similar concerns arise out of intellectual property rights. We have grave concerns that the trend in trade agreements is to direct IP litigation towards such trade panels as dispute settlement mechanisms, thereby compromising nations and individual creators. While IP rights have a historic base in industrial matters, the tendency is to ever-increasingly apply them to culture, an issue that needs a great deal of public discussion. Linked to this is the need for increasing study of international copyright, especially in view of the vast electronic means of violating individual copyright, again ensuring globally that such rights are enforced with [a] public, legal dispute settlement mechanism rather than trade tribunal dispute settlement mechanisms. [Barry Grills, 32:1555-1600]

In the end, the Committee does not want the government to rush into these contentious issues without first completing its consultation stage with the public. The Committee therefore recommends:

27. That the Government of Canada continue its consultations with the parties concerned so that its position on intellectual property represents the interests of all Canadians. That this policy be defended in the Free Trade Area of the Americas negotiations.

CHAPTER 15:
COMPETITION POLICY AND LAW

Trade Policy and Competition Policy Convergence

Competition (antitrust) policy and law has only recently appeared on the trade agenda now that significant progress at the multilateral level has been made on the more traditional issues. The time may indeed be right to open the trade portfolio to consider a broader range of social conduct relating to the contestability of markets. That is, the trade liberalization struggle could probably take a bigger step forward by beginning to address the possibility that, as trade barriers come down, entrenched domestic firms will raise market barriers in their place. While trade policy disciplines the behaviour of governments, competition policy disciplines individuals and firms within its jurisdiction by denying them certain conduct that is understood to be, or is likely to be, anti-competitive. Accordingly, a domestic competition authority could take preemptive actions to ensure the necessary pre-conditions for competition take hold, or maintain them when threatened, which in turn is believed to provide for greater consumer and social welfare. Competition policy and trade policy thus share the mutual goal of making markets "contestable," using the competition authority's terminology for market access (see Box 15.1).

[D]omestic competition laws, effectively enforced, complement trade liberalization ... by ensuring that private anti-competitive conduct does not diminish the benefits of trade arrangements. The inclusion of competition policy in these fora will help ensure that Canadian exporters and investors, when doing business abroad, enjoy the benefits of an objective and predictable competition policy regime that will protect them from anti-competitive practices in the local market. [Patricia Smith, 31:1600]

> The concept that free trade alone is sufficient to establish efficient markets in small economies within the hemisphere raises a number of concerns for the bureau. I would suggest that free trade policy should never be viewed as a substitute for competition policy. For example, a free trade policy alone would not address situations where firms with significant market power are engaging in anti-competitive activity such as collusion. [Patricia Smith, 31:1600]

There are, of course, other reasons why trade officials might want to concern themselves with competition policy and law. There is the rare occasion when a government would, by design or selective enforcement, divert from the original purpose of competition policy and employ it as a substitute commercial policy or industrial policy, effectively negating some of the important wealth gains already achieved by trade and investment liberalization. For example, an independent

competition authority could conceivably take actions against a foreign firm, for example, alleging predatory pricing, simply to harass it and create a bureaucratic barrier to market access. Either by design or by selective enforcement, competition policy could, in some circumstances, replace restrictive commercial policies that are prohibited under a liberal trade regime.

Box 15.1
Contestable Markets

A market is viewed as being contestable if any effort by an existing seller in the market to raise prices above some "competitive" level results in attracting new entry by firms into the market, such that the price is driven back to a competitive level. A contestable market is also one in which incumbent firms, or a monopolist for that matter, would behave like a competitive firm because of concern that by raising his price, entry by competitors will occur. Thus a monopolist may operate in a manner similar to a firm in a competitive market if the market is contestable. However, not all markets are contestable. Conditions may prevail, either associated with the economics of the industry such as economies of scale and sunk costs (i.e. irreversible and irrecoverable investments which are usually specific to a location, business or type of activity), or due to government policy such as licensing requirements, or due to private strategic actions taken by firms such as exclusive dealing arrangements, that prevent entry or the realistic threat of entry. Measures making markets more contestable often involve improving market access leading to the benefits associated with trade liberalization. Competition policy assists in promoting contestable markets by addressing private actions that otherwise limit firms from competing in a market.

There are at least two additional reasons for internationalizing competition policy. First, competition policy can be used as contingent protection when subject to "unfair" pricing such as dumping, which, by definition, could be equivalent to predatory pricing or price discrimination, as the case may be. There are a couple of issues to explore here with regard to the efficacy of antitrust as a substitute for anti-dumping, namely the processes for determining injury and the intent of the party carrying out these actions, but essentially they are opposite (bureaucratic) sides of the same coin, and it is the objectives of the policy-makers which govern the choice. Finally, in an era of globalization, there are increasingly multi-market effects of anti-competitive conduct that are worth pursuing through better coordination and cooperation between competition authorities. Thus, a more effective competition policy is worthy in its own right, but greater consumer and social welfare would be the ultimate objective.

Trade-Related Competition Policy Concerns

There are obviously many legitimate reasons for including competition policy in the trade agenda, but are the above-noted explanations relevant in today's market, or are they just hypothetical? Consider competition policy as a substitute commercial policy designed to circumvent

existing trade commitments. The Committee had before it officials from the Competition Bureau who, according to their experience and interaction with other competition authorities, were unaware of even one instance in the recent past when a competition authority in the Americas used its merger or other competition policy rules as a strategic weapon for restrictive trade purposes. The Committee accepts this testimony and, therefore, concludes that these strategic reasons for including competition policy in the trade agenda are not worth pursuing at this time and will instead focus its attention on incidences of multi-market anti-competitive conduct to guide it in its deliberations.

Two recent cases illustrating the boundary problems have been the merger of Boeing Co. with McDonnell Douglas Corp. and the Kodak-Fuji case. The European Commission threatened to block the aircraft company merger on the grounds that the two companies had exclusive deals to supply certain major airlines, which could harm the makers of the competing European-made Airbus. As the United States was uncertain as to whether these actions were taken to truly bolster the competitive process or rather to strategically advance Airbus's competitive position relative to the merged American aircraft company, it threatened to retaliate if the merger was blocked. Private anti-competitive practices in Japan regarding market entry were the basis for a 301 petition filed by Kodak leading to a submission to the World Trade Organization (WTO) regarding Kodak's attempt to sell film in the Japanese market. The problem arose because the actions taken by a vertically-integrated Japanese company limited the ability of Kodak to distribute films in Japan. The WTO eventually decided in Japan's favour, primarily because competition matters are not part of the General Agreement on Tariffs and Trade (GATT) and, thus, there was no violation of a trade obligation. Nevertheless, this case highlighted the inability of the WTO to acquire the pertinent information for resolving the dispute.

These cases are surely evidence of jurisdictional problems and, in part, justify the plea of the Commissioner of the Competition Bureau:

> [C]ommerce increasingly ignores borders, and so does anti-competitive conduct. We have to ensure there is good cooperation between competition authorities. It's essential for smooth functioning, and it's also essential to make sure we don't have jurisdictional conflicts and we don't get into each other's way when we investigate some of these criminal conspiracies ... [Konrad von Finckenstein, 113:1120]

Beyond these cases of dispute and jurisdictional tug-o-wars, there is also an advocacy role for competition policy to play:

> For example, with the reduction of border protection, both tariff and non-tariff barriers, there is growing concern that the progressive dismantling of domestic state monopolies will leave a void that can quickly be captured by private monopolies. In such an environment, a sound competition law and policy vigorously enforced can be a bulwark against this happening. In this respect, the importance of the advocacy role of a competition authority is significant in making sure that competition authority is involved at the very beginning of the regulatory process. [Patricia Smith, 31:1600]

This point, the Committee finds, is particularly relevant to the Americas.

Competition Policy and the FTAA

In consideration of a Free Trade Area of the Americas (FTAA) agreement, it would be a good starting point to take stock of those countries in the Americas that have a competition law and those that do not. The Committee understands that 12 of 34 countries contemplating the FTAA presently have a competition law on the books, with 8 other countries considering the adoption of such a law.[34] The Committee is also aware that there are competition policy commitments included in the North American Free Trade Agreement (NAFTA), Canada-Chile Free Trade Agreement, and the Group-of-Three Treaty between Mexico, Colombia and Venezuela. The Andean Group (Decision 285) and the MERCOSUR Protocol for the Defense of Competition are competition provisions, but are still pending ratification.

The objectives and scope of these laws vary from country to country. In general, the objectives of competition law in the Americas include: promotion and defense of competition, promotion of economic efficiency and consumer welfare, freedom of initiative, open markets with fair and equal participation for small- and medium-sized enterprises, deconcentration of economic power and the prevention of monopolies and abuses of dominant position. The scope of application of these laws are wide, but there are exceptions for state monopolies, reserved sectors of strategic or national security interests, and intellectual property rights. Finally, the business conduct typically covered by these laws is displayed in Box 15.2.

Box 15.2
Competition Policy Provisions in the Western Hemisphere

The conduct typically covered by competition laws and regulations includes:

- price fixing and market sharing cartels or agreements;
- export and import cartels;
- agreements by competitors to rig bids;
- group boycotts or refusal to supply;
- abuse of monopolistic or dominant position;
- exclusive distribution or supply arrangements;
- tied selling;
- resale price maintenance;
- price discrimination;
- horizontal, vertical, and conglomerate mergers;
- misleading advertising.

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34 The 12 countries with competition laws are Argentina (1919), Brazil (1962), Canada (1889), Colombia (1959), Costa Rica (1994), Chile (1959), Jamaica (1993), Mexico (1934), Panama (1996), Peru (1991), Venezuela (1991) and the United States (1890). The eight countries debating, designing or drafting competition laws are Bolivia, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, and Trinidad and Tobago.

The Competition Bureau had the following comments on the general state of competition policy and enforcement in the Americas:

> Among the 12 countries in the hemisphere that currently have competition laws, many have only recently developed them. And even among those countries that do have them, there is an imbalance in the level of effective enforcement. ... Technical assistance to countries with no or a relatively underdeveloped policy regime will be an essential ingredient for the conclusion of an FTAA framework on competition. Those providing technical assistance will need to understand the necessity for a gradualist strategy that begins with the development of an intellectual, political, and social consensus about the value of competition policy, and culminates in the adoption of sound competition laws and effective enforcement of those laws. [Patricia Smith, 31:1555]

The Committee, nevertheless, believes that the microeconomies of the CARICOM and Central America are a special case; there are likely to be significant resource constraints in developing and maintaining a national competition law. Indeed, without some resource help to improve the cost-benefit of introducing a formal competition policy framework, these countries might be better off relying on the only costless competition policy regime around, that being a policy of free trade.

> I believe that further conceptual analysis needs to be undertaken to explore the workable options for very small economies, such as CARICOM members, where the resource constraints for establishing and operating a domestic competition institution are major considerations. However, where small economies share compatible views and objectives in terms of competition law and policy, the adoption of regional or sub-regional rules — possibly based on the model provisions — and institutions might be feasible for countries with little or no resources to establish their own regimes. Such an approach could provide for a more effective and rational allocation of resources. [Patricia Smith, 31:1600]

The Committee was provided with advice on how competition policy should be addressed multilaterally and in the FTAA.

> Conceptually ... we need an agreement on the basis of the TRIPS — using the same concept as the trade-related intellectual property agreement, commonly known as TRIPS. This would mean a trade-related anti-competitive measures agreement, or TRAMS. ... What would a TRAMS agreement contain? In our view, number one, it would contain an obligation to adopt a sound competition law with appropriate scope and independence for investigation and adjudications. Key provisions would be: a provision against cartels and criminal conspiracy; a provision for merger review; a provision for abuse of dominant position; an advocacy role for the competition authority to make sure competition is considered in the various policy fora; a protection of confidential information, because you can't run a competition regime unless you have that; and finally, access to effective deterrents, be they monetary or criminal. There also has to be a commitment to transparency, national treatment, non-discrimination, and procedural fairness. You cannot run a competition system on less. If it doesn't respect national treatment and transparency, the point is lost totally. [Konrad von Finckenstein, 113:1120]

And

> [C]ompetition policy and law is a highly complex area, as we all know. It is the Alliance's opinion that the focus should shift away from coming up with and trying to agree on substance of

> competition rules and remedies and look more toward the development of a clear set of principles and guidelines for the open and fair administration and enforcement of these rules. [Pamela Fehr, 112:925]

The Committee understands that these suggestions do not mean that they favour the harmonization of competition policy across the Americas. At this stage of the game, the Committee agrees that it is not necessary for the Americas to have a single set of competition rules. It would be best to leave such a decision for later, if at all.

The Committee now returns to the issue of the suitability of competition policy, specifically predatory pricing provisions, replacing anti-dumping policy. The Committee received a wide spectrum of views on this specific issue. Favourable comments were of the following sort:

> [T]he anti-dumping rules and the competition provisions adopted by national legislative assemblies on unfair pricing practices are all pursuing a common objective, namely, maintaining the conditions for fair competition. This leads us to question the logic and pertinence of pursuing a public policy of maintaining two distinct legal systems, one which applies to foreign producers and which is based on the administration of anti-dumping duties, the other which polices the operators in the domestic market and which is designed to prevent predatory pricing policies. I feel that this dual system is artificial; I find it difficult to explain the logic behind it. Consequently, ... I think that Canada should, on the one hand, make an effort to promote the convergence of the anti-dumping system and, on the other hand, advocate competition rules with respect to unreasonably low pricing practices. [Vilaysoun Loungnarath, 110:1430]

Unfavourable comments were of the following genre:

> [D]umping, as one type of unfair trade, is the situation where foreign exporters sell at prices that are lower than at home or are beneath cost, and [illegible] thereby hurt Canadian producers. Non-predatory price discrimination by a foreign exporter without market power in the market of import — namely, Canada — cannot be reached by traditional competition law. ... Well, the problem is, competition law traditionally has required that, for price discrimination or predatory pricing to be found and to be prohibited, there be predation. It requires that the person doing it means to hurt the competitor and has to have market power in order to do so, because what he's trying to do is cut prices, drive the competitor out, and then reap the benefits of monopoly pricing afterwards. ... If I were to drop the anti-dumping recourse and adopt the normal rules of price predation in competition law, I would, in effect, have given up my right to counteract dumping. ... [T]he trade-off of anti-dumping for competition law is not indeed a trade-off at all; it's a mere giveaway. [Michael Flavell, 99:925]

The Committee's understanding of the issue is that predatory pricing and anti-dumping were born out of different necessities and intentions. The former provisions were conceived to protect the interests of consumers, with the objective of securing a competitive process for the longer term. The latter provisions, on the other hand, were conceived to protect domestic producers from a specific foreign rival with special circumstances enabling it to discriminate between markets. Often these circumstances are protected domestic markets.

In the case of anti-dumping, the interests of consumers are being subordinated to those of domestic producers. When viewed in this light, the Committee is of the opinion that competition policy and its administrative authority should never be put in the position of subordinating the interests of consumers to those of producers. However, without the permanent disappearance of the ability to discriminate between domestic and foreign markets, there are indeed circumstances in which the interests of domestic producers should prevail over those of consumers; but not in all instances. Provided that proper administrative discretion is exercised in the application of anti-dumping provisions, the Committee concludes that there is no valid reason, or political appetite for that matter, for folding anti-dumping into antitrust. Competition and anti-dumping policies should, for the time being, remain separate.

Another issue of contention would be the relationship between competition policy and dispute settlement. The special trade committees struck to oversee how to fit competition policy into the trade regime have already concluded that the ability of a foreign government to contest the decisions of another country's competition authority would infringe excessively on national sovereignty. Trade and competition policy experts have instead focused their efforts on the adoption of a competition policy review mechanism and a council to oversee a competition authority's enforcement record in terms of its procedural fairness and transparency obligations.

> It's a subject for negotiation whether dispute settlement procedures could be used to determine if member countries are respecting their obligations to implement and maintain competition laws pursuant to a competition framework. ... We believe that the effectiveness of an FTAA agreement on competition policy would also be enhanced with the establishment of a competition policy review mechanism, which we've stolen from the WTO trade policy review mechanism. A council would be tasked with the responsibility of preparing a periodic review on the substantive provisions of a country's competition law and the competition agency's enforcement record. Both the competition policy review mechanism and the council would promote transparency and establish a competition authority's track record of procedural fairness, and in our view could be an acceptable alternative to addressing the issue of compliance. [Patricia Smith, 31:1555]

The Committee understands that the proposed FTAA competition policy review mechanism and FTAA Competition Policy Advisory Committee would not be able to review or comment on individual decisions made by a competition authority. They, however, would be able to shed more light on the competition policy and enforcement regime of different countries of the hemisphere and make recommendations for modernizing their practices. Thus, in the absence of recourse to *ex post* case review, *ex ante* information will be disseminated as a caveat to would-be foreign traders and investors of the hemisphere. This approach would serve to clarify and provide more predictability on competition matters to foreign traders and investors. A peer review mechanism should also provide for the possibility of influencing reforms of these policies when needed, without encroaching on national sovereignty.

In consideration of all these factors, the Committee, therefore, recommends:

28. That the Government of Canada: (a) encourage the introduction of competition policy and law regimes with strong enforcement provisions of these laws by countries of the Americas that do not presently have them; (b) resist those parties to a Free Trade Area of the Americas agreement who would have anti-dumping provisions merged with predatory pricing provisions of competition policy and law; (c) consider the desirability of a competition policy review process that would, at a minimum, provide routine oversight and report on a member country's competition policy and its competition authority's enforcement record in matters of procedural fairness and transparency; and (d) provide for periodic review to have competition policies broadened and strengthened.

CHAPTER 16:
DISPUTE SETTLEMENT

The Need for a Dispute Settlement Process

In addition to agreeing to the terms of a treaty for the Free Trade Area of the Americas (FTAA), the parties will also have to come to an agreement on a process for settling disputes that may arise in the treaty's implementation or enforcement. Virtually all governments taking part in the FTAA negotiations are already members of at least one regional trade agreement or of the World Trade Organization (WTO) and have some experience with dispute settlement in accordance with the procedures under those agreements.

However, there are political, strategic, and some business reasons for pursuing some issues in a regional context. If one accepts that, I think one then has to look in some more detail at how those regional rules are going to interact with multilateral rules. [Robert Howse, 33:1540]

Trade liberalization agreements will be nothing but empty shells if the parties to them do not comply with their undertakings. They can discuss the difficulties they encounter in implementing the agreement at great length, but if none of the parties has the will to implement the spirit and letter of that agreement, they could well remain nothing but a pious hope. Hence, the addition of a mechanism compelling the implementation of the terms of the agreement and providing for sanctions for non-compliance would be more convincing than any diplomatic conference or committee meeting, not to say what it could do for the government's effectiveness.

The opportunity for a contracting party to the General Agreement on Tariffs and Trade (GATT), the WTO's predecessor, to block the formation of a panel or the adoption of a panel report, has been the subject of constant criticism over the past few decades. Consequently, the signing of the *Dispute Settlement Mechanism* (DSM) under the aegis of the WTO introduced a mechanism that virtually cannot be paralyzed. Indeed, it is now impossible to block the formation of a panel or the adoption of a panel report or Appellate Body report.

However, the DSM, which will be five years old in the year 2000, is now beginning to come under criticism as well. Though no dispute settlement mechanism is perfect by any means, participants in the FTAA negotiations will be able to

draw on experience with the dispute settlement mechanisms of the various bilateral, regional and multilateral fora in establishing their own mechanism to address the specific concerns of those members of the free trade area. Indeed, it is likely that their experience will have a decisive impact on the dispute settlement procedures they favour for the FTAA.

Choosing a Dispute Settlement Process

Clearly, the economic power of member countries is a much less important factor where an equitable dispute settlement mechanism is available. In the case of the FTAA, the small economies may thus receive the same treatment and enjoy the same rights as the major economic powers of this proposed free trade area, in particular the United States and Brazil. The WTO's dispute settlement process provides a fairly accurate picture of what an impartial system would look like. Less developed countries may win their cases against the United States and the European Union, thus forcing the latter to alter measures that are inconsistent with their undertakings under the WTO agreements.[35] Equality amongst all members of the free trade area will be an essential factor in the agreement's likely success. Small countries will not want to be party to a trade liberalization agreement if they sense that the ground rules can be altered depending on the members' economic power.

None of the participants in the FTAA negotiations appear to have challenged the necessity of a dispute settlement mechanism. Dispute settlement was addressed in the Joint Declaration of March 19, 1998 of the Fourth Trade Ministerial Meeting held in San Jose, Costa Rica, in the following terms:

> To establish a fair, transparent and effective mechanism for dispute settlement among FTAA countries, taking into account *inter alia* the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes. To design ways to facilitate and promote the use of arbitration and other alternative dispute settlement mechanisms to solve private trade controversies in the framework of the FTAA.

According to this declaration, impartiality, transparency and efficiency should be the main features of the FTAA's dispute settlement mechanism. Consequently, all members of the FTAA will be accorded identical treatment regardless of their level of economic development or political power.

However, this appears not to be enough, given that a dispute settlement action is not a costless undertaking. Before taking an action under a dispute settlement process, a state would normally conduct a cost-benefit analysis of the exercise. In the case where the costs, including litigation costs, would exceed the perceived benefits, the state may well decide not to seek remedy. But since the smallest and poorest countries cannot spread these litigation costs over a wide economic base as the largest and richest countries of the hemisphere can, they would likely find litigation prohibitive in a greater percentage of disputes. The Committee was told of some proposals to correct this imbalance.

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35 Agreements resulting from the Uruguay Round of Multilateral Trade Negotiations.

> What I have in mind is the dispute resolution of the WTO. A number of proposals have been floated to provide poor small countries with the legal, financial and technical expertise they need to bring disputes to the dispute resolution process. It seems to me that when we're designing an FTAA, we should think about that and build that in at the very start, which is to say that not everyone is going to have equal access to dispute resolution. This is something we ourselves, as a small and open economy, value very much, to live in a system with rules that are enforced. So this is a very practical agenda item that in this case Canada can support. [Rohinton Medhora, 28:1625]

It would, therefore, be advisable to establish a financial assistance program in the case of dispute settlement. Such a program would cover only a portion of the litigation costs associated with a legitimate exercise to prevent a proliferation of cases which could reasonably be settled through inter-party negotiation. In addition, a cap should be imposed on the amount that a country could receive in a given period.

Under the WTO, the members of a panel may not be nationals of the parties to the dispute. For example, if Canada and the United States are involved in a dispute, no citizen of either of those countries may be a member of the panel. The purpose of this requirement is to guarantee the impartiality of members in a dispute they are called upon to adjudicate. The Committee was told that it would be better to go further in guaranteeing the impartiality of panels. One witness advocated the establishment of tribunals independent of the international organization's secretariat. In this way, it would be possible to prevent the parties, and even the organization's secretariat, from intervening in the process. [Howard Mann, 33:1540]

The transparency of the dispute settlement system is also a growing concern among parties to trade liberalization agreements. A number of criticisms of the WTO's dispute settlement mechanisms focus more precisely on the system's transparency. In a dispute before the WTO, the parties' arguments and the deliberations of the panel and Appellate Body are kept secret. Only the parties to the dispute and other members that have expressed a desire to make submissions concerning the dispute are allowed to express their point of view; no organization that is not a WTO member may participate.[36] Witnesses underscored the importance of transparency in dispute settlement procedures and expressed the opinion that the parties' arguments and the hearings should be made public. Furthermore, third parties should be able to intervene and express their views on the dispute. [Robert Howse, 33:1530 and Howard Mann, 33:1545]

The effectiveness of the dispute settlement mechanism is another factor to consider. The system must be able to produce a decision in a relatively short time, and no party should be able to paralyze the system. Finally, it must be ensured that decisions are implemented by the parties to the dispute. The Committee recommends:

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36 For a description of the main criticisms made of the WTO's dispute settlement mechanisms, please see Chapter 3 of the June 1999 report by the Standing Committee on Foreign Affairs and International Trade entitled, *Canada and the Future of the World Trade Organization: Advancing a Millennium Agenda in the Public Interest.*

29. That the Government of Canada adopt the position that the dispute settlement mechanism of the Free Trade Area of the Americas be based on World Trade Organization principles, including emphasis on the implementation of a panel finding, compensation and retaliation.

Although the WTO's DSM has a number of positive features, it can nevertheless be improved upon. Between now and the negotiating deadline of 2005, the countries taking part in the negotiations will be able to draw on some 10 years of experience with this mechanism that will enable them to establish a dispute settlement system more suited to the FTAA.

Specific Problems to Resolve

One of the WTO's basic principles is that every member of the organization must treat all other members in the same way; this is the most-favoured nation (MFN) principle. However, one's membership in a regional trade liberalization agreement is a direct violation of this principle because a member state may grant more concessions to other member states than to WTO members.

The WTO does, nevertheless, recognize regional agreements. Article XXIV of the GATT 1994 and Article V of the General Agreement on Trade in Services (GATS) exempt members that are parties to a regional trade liberalization agreement from the application of the MFN principle in respect of undertakings made under that agreement. This does not, however, mean that regional agreements do not pose any problems for realizing greater multilateral trade liberalization.

> This plethora of new issues dealt with under the WTO and the signing of agreements in these various areas mean that there is now the risk that the agreements and commitments may contradict each other. [Ivan Bernier,104:940]

The increasing number of regional trade liberalization agreements raises some implementation and interpretation problems. Consider the following example. The North American Free Trade Agreement (NAFTA) and the WTO agreements contain similar provisions in a number of areas. In a dispute between Canada and the United States, the complaining party may file its complaint with the NAFTA Free Trade Commission or with the WTO Dispute Settlement Body. The forum selected will be based on the complainant's assessment of the provisions of each agreement in the hope of finding the forum most favourable to it.

This "forum shopping" behaviour could undermine the stability and predictability of the international trading system. If all the provisions concerning a particular field were identical (i.e. they were worded in the same way) from one agreement to the next, and if identical provisions were interpreted in the same way, there would likely be no problem created. However, this is not currently the case.

> A proliferation of different basic rules will inherently lead to forum shopping, and there's not going to be anything that's going to be capable of stopping that. You'll simply spin the law and say, I don't have access under this rule, I don't have access under that. The critical issue is going to be the underlying compatibility or similarity of the rules. [Howard Mann, 33:1555]

The situation was also explained to us in the following terms:

> A proliferation of similar but not identical legal provisions interpreted by different fora is likely to reduce predictability in trade law rules and norms and undermine one of the main purposes of regulating international commercial relations by rules. [Robert Howse, 33:1535]

Participants in the FTAA negotiations must become aware of the disadvantages of the increasing number of trade liberalization agreements containing similar but not identical provisions. There are three potential solutions to the problem. The first would be to avoid signing regional free trade agreements and to refer disputes to the WTO. However, this proposal disregards the underlying purpose of regional agreements which is to respond more satisfactorily than the WTO to the needs of a particular group of countries.

The second solution would be to use the same terms in all agreements in addressing the same subjects. However, this solution does not take into account the specific needs of the parties to a regional agreement. It is natural for there to be differences between agreements, since inter-party dynamics differ from one agreement to the other.

The third solution would be to establish a hierarchy amongst the various regional agreements and between the regional agreements and the WTO agreements. This would limit a party's recourse to shop between forums, since this hierarchy would determine which agreement would be applicable in a particular case.

CONCLUSION

The Objective

As in building any puzzle ... always look for the commonalities that make the pieces fit together, as opposed to the differences that keep them apart. Furthermore, let's keep it simple. We don't have to solve the whole puzzle at once. [Annette Hester, 31:1615-1620]

Free trade agreements come in all shapes and sizes; their common thread being that, with a few exceptions, all goods produced in the region are traded within and between member countries without the imposition of a tariff. The largest free trade deal in terms of economic activity and member countries is the North American Free Trade Agreement (NAFTA) and the European Union, respectively. Both are comprehensive economic arrangements, extending far beyond zero tariff rates. At the other end of the spectrum are free trade deals such as the CARICOM and CACM. They are probably the smallest in economic terms that one can find anywhere in the world. They are also the least comprehensive in the rights and obligations conferred to members states.

The Free Trade Area of the Americas (FTAA) initiative, as spelled out in the 1995 Denver Summit of the Americas Ministerial Declaration, proposes to:

> [Maximize] market openness through high levels of discipline as we build upon existing agreements in the Hemisphere; full consistency with the provisions of the World Trade Organization (WTO); be balanced and comprehensive in scope, covering among others, all areas included in the Summit of the Americas *Plan of Action*; not raise barriers to other countries and represent a single undertaking comprising mutual rights and obligations.[37]

This is a tall order. In terms of economic output and the number and diversity of member countries, the FTAA initiative is the largest and most diverse free trade deal ever attempted. If the FTAA comes to fruition, it would both complement and consolidate the existing patchwork of bilateral trade and investment agreements in the region. Most notably, such a hemispheric agreement will reorganize the preferential orientation of trade that occurs today towards one that is based more on efficient production lines. Though the impact is expected to be small in absolute and relative terms, the greatest degree of trade reorientation will fall on Latin

37 Summit of the Americas Second Ministerial Trade Meeting, Cartegena, Colombia, March 21, 1996 Joint Declaration, p.1.

American countries, as the United States is by far their largest trading partner, but is not party to an existing preferential trade deal with them.

The FTAA also proposes to provide more security to cross-border investments. Less uncertainty in undertaking business investments will undoubtedly lead to more foreign direct investment (FDI) than otherwise, as it will reinforce the trend to adopt more flexible manufacturing techniques. These techniques allow for greater task specialization through the out-sourcing of selective component parts in the production of complex products, where different countries of the hemisphere would offer new and additional production or logistic advantages. The assembly of the final end-user products will then take place closer to the points of consumption.

The smaller countries of the Americas that exhibit the greatest flexibility in their domestic policy reforms will have the most to gain by hemispheric free trade. The unshackling of their more profitable firms and industries from their limited domestic markets will bode new found economies of scale afforded, in part, by greater FDI inflows. A surge in their productivities could then be expected. Ultimately, the benefits of greater hemispheric production efficiency, resulting from a larger and better crafted economic integration quilt, will be broadly distributed amongst North American multinationals, high-skilled North American workers and Latin American labour.

Timing and Structure

The FTAA negotiations were initiated during the Second Summit of the America in Santiago, Chile, in 1998; they are to be concluded no later than 2005. Concrete progress in the form of an agreement on specific business facilitation measures is to be reached by the year 2000. A Trade Negotiations Committee (TNC) comprising the Vice-Ministers of Trade was established to oversee and guide the work of the nine negotiating groups formed at the fourth ministerial Summit of the Americas in San José, Costa Rica. Both the TNC and the 9 negotiating groups are led by Chairs and Vice-Chairs whose appointment are time limited and revolve to someone else every 18 months.

The negotiations are supported administratively through the creation of an Administrative Secretariat, located at the site where the meetings of the Negotiating Groups are held. The Secretariat is funded by a combination of local resources and the Tripartite Committee institutions. Technical and analytical support for the negotiations is provided by the Tripartite Committee, comprising the Organization of American States, the Inter-American Development Bank, and the United Nations Economic Commission for Latin America and the Caribbean.

The Committee feels that the business facilitation issues, including customs procedures, are an early warning signal of the prospects and the degree of success likely to greet the FTAA. Given success in this aspect of the negotiations, the rest of the negotiations will find their own momentum. Clearly, progress on the less contentious issues will be found first and early on the negotiations timetable, leaving the more contentious issues to be resolved sometime later but before the deadline of 2005. Management of the nine negotiating groups should ensure that sufficient bridging of differences between participant countries occurs at the right time and that incremental progress is

achieved throughout the negotiating timetable. Should these negotiations bog down on a few issues, and if the will of the participants is still there, some other structure for resolving the outstanding issues will have to be found. Perhaps these issues are best passed up to the Trade Negotiation Committee or the Vice-Ministers of Trade, where more authority may be conveyed.

Canadian Interests and Priorities

At the outset it should be remembered that Canada has three comprehensive free trade agreements within the Americas region, although two of them are not yet fully implemented, and, therefore, the bulk of the economic rewards flowing from the latest two are still to come. These agreements have been concluded with the United States, Mexico and Chile. These countries represent more than 97% of Canada's export markets in sales volume terms. An FTAA agreement could, therefore, be a catalyst to only modest export potential, with MERCOSUR countries representing the most significant markets. The FTAA should not, therefore, be construed as the market diversification initiative that some have purported it to be.

Similar to Canada's free trade agreement with Chile, the beneficial impact of an FTAA is likely to be felt more on the investment side. Canada is a secondary hub or pool of investment capital in the Americas. The extension and consolidation of measures contained in Canada's bilateral investment agreements within the region under the rubric of an FTAA agreement provide the greatest potential for economic rewards to flow to Canada. Canadian multinationals will be more competitive under a more liberal hemispheric investment regime as they will be better able to fend off competition, primarily from Southeast Asia, in American and European markets. Increased Canadian trade within the region and more skilled jobs in Canada will then follow this increase in Canadian FDI outflows.

Canadian priorities in the FTAA are, therefore, threefold: (1) zero tariff rates; (2) the removal of redundant and wasteful customs procedures as a barrier to trade; and (3) strong investment protection measures throughout the Americas region. These priorities should be obtained first and foremost. They should be resolved as comprehensively as possible. Other negotiating issues, while important, should be assigned a lower priority.

A Strategic Approach

Canada's interests and priorities in the FTAA will not likely be the same as those of others. The United States is more likely to emphasize tariffs, customs procedures, and intellectual property rights regimes in the negotiations. Brazil, on the other hand, as well as many other Latin American countries, will likely focus on dispute settlement, agriculture and investment issues. Canada will therefore have to find allies wherever it can. The United States, Mexico and Chile will more often than not be such allies.

Lessons can be learned from other multilateral trade agreements. The General Agreement on Tariffs and Trade (GATT) 1947 and the General Agreement on Trade in Services (GATS) were, upon inception, weak documents. They did not try to resolve many of the then existing trade distortions

despite the fact that it was mutually beneficial to do so. With time, the GATT 1994 became a robust agreement, and the GATS will likely become one as well. The Committee believes this philosophy can be successfully applied to the FTAA.

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the Government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings is tabled (Meeting Nos. 2 and 3).

Respectfully submitted,

Bill Graham,
Chair

Reform Party Dissenting Opinion
Canada's FTAA Position Should Reflect Broad Consultation
October 27, 1999

Introduction

In preparing for its report on Canada's position going into the upcoming Free Trade Area of the Americas negotiations, the Standing Committee on Foreign Affairs and International Trade heard from hundred of witnesses. The basic message the Committee heard was that Canada had benefited greatly from the expanded trade and investment in goods and services emanating from the North American Free Trade Agreement and the Uruguay Round of GATT.

Similarly the Committee heard that expanding the Canada-U.S. Free Trade Agreement to Mexico and signing a Free Trade Agreement with Chile were natural first steps in creating a hemispheric Free Trade Agreement which would further benefit the Canadian economy, while diversifying Canada's trade beyond traditional trading partners.

In large part, the recommendations contained in *The Free Trade Area of the Americas: Towards a Hemispheric Agreement in the Canadian Interest* have addressed those requests and to this extent, the Reform Party agrees with the report.

Canadians Must be Consulted

The text of the Majority Report does not satisfactorily reflect this need. It reads:

Recommendation 1

That the Minister of International Trade encourage and again at the Ministerial Meeting to be held in Toronto in November 1999, urge his colleagues of the Americas to actively engage "civil society" in their respective countries in a meaningful consultation process.

The Canadian public is able to obtain accurate information from a wide variety of sources and consequently, seeks to have input into major decisions. The Canadian population, which is diverse in so many ways, has a wide variety of perspectives which need to be represented in complex negotiations, especially those which may ultimately affect all areas of the Canadian economy.

This diversity, and the need for broad public consultations into the FTAA negotiation process was recognized in the mandate given to the FTAA Committee of Government Representatives on Civil Society:

> We recognize and welcome the interests and concerns that different sectors of society have expressed in relation to the FTAA. Business and other sectors of production, labour,

> environmental and academic groups have been particularly active in this matter. We encourage these and other sectors of civil societies to present their views on trade matters in a constructive manner.

This text is broad, recognizing that "Civil Society" is made up of a number of stakeholders on all sides of the political spectrum and in every sector of society. This is the approach that the Government of Canada should take. Unfortunately, consultations even in Canada have not been particularly broad. Although the Committee did hear from representatives of different positions, and many special interest groups, the fact is that the average Canadian is quite unaware of the FTAA process even though it started nearly five years ago.

Moreover, on the international scene, the Organization of American States (OAS) has set up a vice-ministerial level FTAA Civil Society Committee, based in Washington, which has invited people (mostly representing special interests of one sort or another) from across the hemisphere to submit comments. In so doing, the FTAA Civil Society Committee has created a process whereby unelected and unaccountable individuals may bypass the domestic consultation process carried out by the democratically elected governments in FTAA signatory countries, in favour of direct input at the vice-ministerial level. It speaks to a two-tier consultation process which ultimately minimizes the value of broad-based multi-sector consultations by a democratic government at merely a national level.

Further, such a two-tier approach flies in the face of the first paragraph of the 1994 Summit of the Americas *Declaration of Principles*:

> The elected Heads of State and Government of the Americas are committed to advance the prosperity, democratic values and institutions, and security of our Hemisphere

If democratic values are truly to be advanced, then elected officials, or those persons chosen by an elected government, must be present at the bargaining table and all other parties be permitted to provide their input only through the appropriate elected national government.

Ultimately, if a process is used which is not seen to be transparent, democratic and inclusive, the FTAA negotiation process may encounter the very same domestic obstacles which, unfortunately, threatened the MAI.

As strong supporters of the FTAA initiative, we therefore recommend:

> That the Minister of International Trade encourage and again, at the Ministerial Meeting to be held in Toronto in November 1999, call upon his colleague of the Americas to invite business and other sectors of production, labour, environmental and academic groups as well as all other sectors of society to present their views on trade matters in a constructive manner.

> That the Minister of International Trade request that the FTAA Civil Society Committee not consider submissions made by parties who live in or are based in FTAA negotiating countries in which there has been a democratic domestic consultation process, and instead request that these parties provide their input through their national elected governments.

The Provinces Must be Consulted

Canada is a federal country and the *Constitution Act* divides powers between the Federal Government and the Provinces. Where the negotiation of a trade agreement touches directly on provincial areas of jurisdiction, it is necessary to consult the provinces before concluding a final agreement.

Failure to consult the provinces in a meaningful way during the negotiation of the NAFTA has resulted in a situation where bulk water that is located entirely within provincial borders, could come under NAFTA rules in certain circumstances. Recent developments in British Columbia, Ontario and Newfoundland show that provincial consultations during the NAFTA negotiation process might have avoided, or at least minimized, these concerns.

Similarly, while setting national emissions targets during the Kyoto Protocol (Convention of Global Climate Change) negotiations, the federal government did not adequately consult the provinces, whose cooperation was essential in meeting Canada's commitments. The result has largely been an inability to meet those commitments.

Furthermore, in areas touching on labour standards, and agricultural practices, provincial cooperation is essential to implementing any treaty which might be concluded and therefore it is highly desirable to have their input at early stages.

Australia, like Canada, is a federation with a division of powers between the Commonwealth (national) government and the States and Territories. As in Canada, the foreign affairs power rests at the federal level. In 1996, following broad public consultations, Australia created a Treaties Council to facilitate greater consultation with the States and Territories. The Council consists of the Prime Minister, Premiers and Chief Ministers. It allows the States and Territories to draw to the national government's attention treaties of particular sensitivity and importance to them and for the national government to maintain at the highest level its commitment to consultation. The Council has an advisory function to consider treaties and other international instruments of particular sensitivity and importance to the States and Territories.

The negotiations towards a Hemispheric Trade Agreement are likely to take a number of years. We call upon the government to work with the provinces to devise meaningful ways that the provinces may have input into the FTAA and other treaty negotiations, with particular emphasis on ensuring that provinces have a chance to influence international negotiations which touch on provincial powers.

Parliament Must be Consulted

Parliament is currently consulted on international treaties only when enabling legislation is required (e.g. the recent nuclear test-ban treaty). However, in other cases, such as Kyoto and the ICC, commitments are taken forward much too far by the government before Parliament, the provinces and the public are even consulted. This unaccountable system must be changed.

At a bare minimum, the final version of a treaty such as the FTAA should be tabled in Parliament for at least 30 sitting days before the government or any department takes action to bring a treaty into force or passes any enabling legislation.

A Special Joint Standing Committee on Treaties should, during this process, review the agreement; hold public hearings; and review and answer questions posed by any MP, Senator, or member of a provincial legislature.

Finally, the treaty must be ratified by Parliament in a free vote before it becomes binding on Canada. This principle is in keeping with the promotion of "democratic values", which lies at the heart of the FTAA. It is required in two of the world's largest democratic federations; the U.S. and Australia. It is even included in France's Constitution.

Article 53 of the Constitution of France:

> Peace treaties, trade treaties, treaties of agreements concerning an international organization, those involving state finances, those amending rules of a legislative nature, those concerning individual states, and those calling for the transfer, exchange or annexation of territory, may be ratified or approved only by an Act of Parliament. They shall take effect only after having been ratified or approved.

The people of Canada deserve no less.

Conclusion

In conclusion, there is ample evidence that trade and investment liberalization has brought significant benefits to Canada. The FTAA negotiations offer the potential of further benefits, increased economic diversification and a slight de-emphasis of our trading dependency on traditional partners

Canada has much to gain from a hemispheric Free Trade Agreement. However Canadians must have had the chance to influence the process and learn about the results. The provinces must be confident that the agreement does not impinge on their powers, or if it does so, they must be willing to accept such limitations in the name of greater economic prosperity. Finally, Canadians must be encouraged to ratify the final agreement through full parliamentary debate and a free vote in the House of Commons. Through such a process, it is hoped that Canadians will not merely accept the FTAA, but enthusiastically "buy in" to an agreement which will make everyone better off.

Free Trade Area of the Americas: Seeking an Agreement that Serves the Interests of Canadians Dissenting Report by the Bloc Québécois on the Report of the Standing Committee on Foreign Affairs and International Trade October 1999

I. Introduction

It is in a spirit of cooperation and openness that the Bloc Québécois took part in the work of the Standing Committee on Foreign Affairs and International Trade concerning the Free Trade Area of the Americas (FTAA). This Report, *The Free Trade Area of the Americas: Seeking an Agreement that Serves the Interests of Canadians*, has been prepared for the meeting that will take place in Toronto on November 3 and 4, where Canada will chair an international ministerial meeting, aimed at establishing a free trade area for the whole of the Americas.

Although we are in favour of establishing a Free Trade Area of the Americas, we regret yet again the lack of time given to Members of Parliament to examine and discuss the 29 recommendations made in the Report.

The Bloc Québécois rightfully expected that the Committee's report would clearly set out the positions and approaches that the federal government should take in anticipation of the FTAA negotiations. Unfortunately, most of the recommendations in the report are too vague. They are simply pious wishes and do not impose obligations other than of a strictly commercial nature on the governments that wish to sign a treaty based on it.

II. Québec's participation in the FTAA negotiations

As in the case of the WTO negotiations, the Bloc Québécois feels that Québec's interests would be better served and defended by a sovereign Québec speaking in its own name at the bargaining table.

In fact, at the present time, only the federal government is able to decide on the agenda and negotiate international agreements. However, the issues that will be discussed there will include subjects which fall directly under Québec's jurisdiction or could seriously affect its government in the exercise of that jurisdiction. Thus, Québec remains unfairly dependent on the federal government and feels that this situation can no longer continue.

To ensure that Québec's interests are adequately represented, we have requested that Québec sit at the bargaining table in its own name. As we noted in our minority report on the WTO, Québec is allowed to do so in the Agence de la Francophonie, where it acts on its own behalf when its interests

are at stake. It is therefore possible and desirable for the federal government to accommodate Québec in this way.

Another way of involving the government of Québec, and the governments of the other provinces, is to insure that all governments can participate in the bargaining teams. In the area of international negotiations, we claim at least the same treatment that the member countries of the European Union enjoy. They only have one representative but each government takes part in the bargaining teams. The Bloc Québécois feels that this arrangement would enable the federal government to involve Québec, and the provinces that so desire, in all stages of the negotiations.

III. The cultural exception and the promotion of cultural diversity

We are very pleased to note that the Standing Committee on Foreign Affairs and International Trade has endorsed the recommendations of the Bloc Québécois on issues of cultural diversity.

The Bloc Québécois has always been the defender of the principle of the general, self-defined cultural exception. We see with satisfaction that the government continue to defend the idea of a cultural exception while working towards a new international instrument on culture. It is very important to continue to defend the principle of a cultural exception especially since its project for a new organization is vague: To what authority will this task be given? What will its powers be? To whom will it report? and so on...

IV. Involvement of civil society

We would have liked **Recommendation 1** to be more precise, affirming that the consultation process of civil society as a whole would be permanent, transparent and effective. This mechanism would enable all parties in society to express opinions to the government on subjects concerning them.

V. The common currency debate

The fact that Canada will chair the ministerial meeting in Toronto will allow it to include a review of certain challenges that Quebeckers and other Canadians consider important on the agenda. In this situation, the Bloc Québécois regrets the fact that the federal government is not taking this opportunity to examine a crucial issue, namely a monetary union of the Americas. Instead, the federal government stubbornly prefers to do nothing on this issue although it is being discussed in many countries in the FTAA.

Last winter the Bloc Québécois launched a debate on the possibility of adopting a common currency first in North America and later in the other countries of this hemisphere. Through the Joint Economic Committee, the US Senate also examined the monetary future of the Americas. On July 23 and 24 many countries met in Panama, under the auspices of the Inter-American Development Bank, to discuss the future of the currencies in the Americas. In Argentina, former President Carlos Menem spoke out in favour of using the US dollar in his country. In Mexico, two major business organizations asked President Zedillo to adopt the US dollar as Mexico's currency.

Given these opinions, the Bloc Québécois would have liked to see a recommendation on monetary union included in the report so that a Monetary Institute of the Americas could be set up within the FTAA to consider the issue. This institute could look at the advantages and disadvantages of a monetary area corresponding to the economic space of the FTAA and at various possible monetary scenarios such as the status quo, a fixed exchange rate system, the conditions that should govern monetary union and adoption of the US dollar as the common currency.

This non partisan multinational institute could provide decision-makers, in the countries involved, with information so that they can make informed decisions with respect to the future of currencies. This institute could also act as a consultative and coordinating body among the various central banks in order to ensure that the proper information is made available to all those concerned.

VI. The need for an environmental clause

The Bloc Québécois feels that **Recommendations 11 to 13**, about environment, are much too vague. We propose the inclusion in the FTAA of a clause that would allow states to remove endangered ecosystems from the application of clauses that are strictly commercial.

We also recommend that minimal standards to protect the environment be part of the negotiations. If they are included in the body of the agreement, these rules and clauses would be binding on signatory governments and authorize the imposition of compensatory measures in case of failure to comply with them. They could draw from the resolutions that were adopted at the Rio Summit and from the conventions and protocols related thereto.

VII. Social clauses

The Bloc Québécois does not approve of **Recommendation 10** because it feels that it is much too weak and is nothing more than a statement of principle. Like many non-government organizations and labour unions, our party favours the inclusion of a social clause to provide adequate protection for workers throughout the Americas in the FTAA rules. Furthermore, social clauses, based on the Universal Declaration of Human Rights, must provide a real protection of human rights.

We earlier expressed our concerns on this subject in our dissenting report on the WTO negotiations. In our view, rather than simply stating that it is necessary to "build up the presence of the International Labour Organization (ILO) in the hemispheric initiative", the social clauses should refer directly to the duty of governments to comply with the rules set out in the seven fundamental ILO labour conventions. They would then have much more weight and impact. As we noted earlier in our dissenting report of last June on the WTO, we are referring to the following conventions: Convention 29 on forced labour, Convention 87 on freedom of organization and collective bargaining, Convention 98 on the right to organize and collective bargaining, Convention 100 on equal pay, Convention 105 on the abolition of forced labour, Convention 111 on discrimination in employment and Convention 138 on the minimum age of eligibility for employment.

In the view of the Bloc Québécois, the inclusion of these conventions in the FTAA would help to prevent the most extreme forms of exploitation as well as the injustices to which many workers in the Americas are subject.

VIII. Approval by the House of Commons and assent of provinces

One of the criticisms most frequently levelled against globalization specifically concerns the lack of transparency of the process and the little information available over the whole phenomenon, which is too often seen as inevitable. We must ensure that both parliamentarians and the public are more involved in the issues raised by globalization.

Moreover, the Bloc Québécois feels that it is important to involve the House of Commons directly in the conclusion process of international agreement. Not only is it essential that the House of Commons be given an opportunity to monitor the FTAA negotiations but it is also important that it gives its consent. Since these are important treaties, it would be appropriate, after the agreements are signed by the government, for them to be tabled and debated in the House of Commons before a resolution approving them is adopted.

Also, the Bloc Québécois is of the opinion that the provinces must be directly involved in the negotiation process. However, the federal government stubbornly refuses to recognize what seems to be obvious for many Quebeckers.

As many of the issues raised in the negotiation process of the FTAA are of provincial jurisdiction, it is imperative that the consent of the provinces be obtained prior to any treaty ratification by the federal government.

IX. Conclusion

The Bloc Québécois has played an active role in the process of consulting the public in this country about the imminent creation of a Free Trade Area of the Americas, which we support.

In that exercise, however, the Liberal majority has again displayed its intransigence in the face of Québec's legitimate aspirations. Its right to participate in the negotiations and the right to speak on questions within its jurisdiction are not acknowledged. Furthermore, the limited amount of time given to the Committee members to examine these issues, which are fundamental after all, shows the government's lack of interest in listening to and acting on the opinions of interested parties.

The Bloc Québécois has fought this battle in the past when the Committee prepared its report on the WTO and the Millennium Round of negotiations. We shall continue to defend the true interests of Québec and to be watchful at all times over the question of the FTAA.

New Democratic Party of Canada Minority Report on the Free Trade Area of the Americas (FTAA)

Bill Blaikie, MP— October 25, 1999
NDP Critic for International Trade

1. The majority report puts forth an approach to negotiations on the Free Trade Area of the Americas (FTAA) that is remarkably similar to the elitist and uncritically commercial approach to trade liberalization that was rejected by Canadians in the Multilateral Agreement on Investment (MAI), and that, contrary to the report's title, continues to undermine the Canadian public interest through the Canada-U.S. Free Trade Agreement (CUSFTA), the North American Free Trade Agreement (NAFTA), and the World Trade Organization (WTO). That approach systematically elevates the rights of investors above those of citizens and their democratically elected governments. The NDP files this minority report because it advocates an alternative approach to globalization by which the world might achieve a stable, rules-based global economy that protects the rights of workers and the environment, provides for cultural diversity and ensures the ability of governments to act in the public interest.

2. The fundamental imbalance between investor and citizen rights is seen most clearly in the majority report's discussion of the need for an effective dispute settlement process in the FTAA. It asserts that trade liberalization agreements "remain nothing but a pious hope" if they do not include enforcement mechanisms "providing for sanctions for non-compliance." Accordingly, the report supports the inclusion of effective enforcement mechanisms for trade and investment disputes. Yet, in discussing the need to protect core labour, human rights and environmental standards, the report proposes nothing more than the "pious hope" it deems inadequate to protect investors and corporations. In these fundamentally important areas it offers only vague and empty platitudes, calling on the government to "assess" the impact of the proposed agreement on human rights; to "encourage" trading partners to respect human rights; to "continue to promote labour standards"; to "build up the presence of the International Labour Organization" (ILO) in the hemispheric initiative; to "seek to ensure" that national environmental standards are respected; and, to "work towards clarifying the rules" on the enforcement of multilateral environment agreements. If enforcement mechanisms to protect human rights are to be included, the report insists that they must be "relatively costless," unlike the proposed mechanisms for trade and investment disputes which it acknowledges to be costly. The report's incredible hypocrisy on the question of enforcement mechanisms is perhaps most evident in its rejection of binding and enforceable core labour standards even though it explicitly admits that, "in reality the ILO is void of any real enforcement powers."

> The NDP rejects an approach that provides investors with ironclad protections but leaves citizens with mere "pious hope." If Canada is to sign a FTAA agreement, that agreement must

either deal with social, environmental, labour and human rights issues in an enforceable way, or other international or Pan-American agreements and institutions concerned with human rights, social, labour, and environmental issues must be given "teeth," i.e. - the power to sanction behaviour which violates agreed-upon standards.

3. To protect investor rights, the report endorses the inclusion of an investor-state mechanism similar to that contained in Chapter 11 of the NAFTA and proposed in the MAI. Canadians have already seen how such a mechanism can be used by foreign investors to intimidate and sue their elected governments. Last year, US based Ethyl Corporation successfully used the NAFTA investor-state procedure to extract $19 million from Canadian taxpayers, and to force the Canadian government to rescind its ban on the potentially toxic gasoline additive MMT. A more recent action filed by Sun Belt Water Inc. of California ridiculously proposes to leave Canadians on the hook for as much as $10.5 billion (US) in compensation, and if successful, would undermine Canada's ability to protect its own freshwater resources. As the NDP argued in its minority report on the MAI, the investor-state mechanism inappropriately gives multinational corporations a status equal to that of democratic governments and greater than that of citizens, and sets up a binding, secretive process that has not just a legal effect but also a "chilling" effect, by which governments may, out of fear of such litigation, refrain from environmental and other legislative actions intended to protect the public interest. Moreover, because only foreign investors have access to the investor-state procedure, it perversely gives foreign investors more rights in Canada than Canadian investors. Just as the NDP has called for the removal of the investor-state procedure from the NAFTA, the NDP rejects the inclusion in any FTAA agreement of a similar mechanism, however narrowly it defines expropriation.

4. The report proposes to reintroduce several other investment provisions that were also proposed in the MAI. The NDP is particularly concerned with the proposal to entrench the right of investors to transfer their investment capital across international borders without restriction. The unfettered speculative capital flows that this proposal would encourage are the root cause of the extreme financial instability that has plagued the global economy in recent years. Although the report expresses concern about potential global financial crises, this proposal would prohibit the very regulatory tools that enabled Chile to successfully weather the global financial crisis of 1997 while free capital flows ravaged the economy of neighbouring Brazil. Rather than promoting speculative capital flows, the NDP believes that Canada should instead negotiate international rules that rein in the global financial casino and curtail the power of money speculators to destabilize national economies and blackmail governments.

5. The majority report acknowledges that the CUSFTA and the NAFTA have failed to protect Canadian cultural policies, despite the government's past assurances to the contrary. To provide better cultural protection in the future, the report proposes a new international instrument outside the FTAA framework. While the NDP is not opposed in principle to such an instrument, it must not be used to deflect legitimate criticism without actually achieving the desired protection, just as the ineffective labour and environmental side agreements were used

during the NAFTA negotiations. A stand-alone instrument is only acceptable if culture, and cultural industries, are fully carved out of FTAA and WTO agreements. The carve-out must mean that Canadian cultural policies will not be subjected to countervail threats as occurred in the split-run magazine dispute. The government sell-out to the Americans in that dispute made it clear that an "exemption" like that contained in the NAFTA is completely inadequate to protect Canadian culture. A stand-alone instrument would also have to address the increasing problem of corporate concentration, cross-ownership and foreign take-overs in strategic sectors such as film production, book publishing, broadcasting and print media. It should also allow for regulation of the "New Media" in the national cultural interest.

6. Although the majority report recommends that the government and its FTAA partners actively engage civil society in a meaningful consultation process, the NDP notes that several participating civil society groups have questioned the integrity of that consultation process as it has proceeded thus far. In particular, some NGOs and labour organizations told the Committee that their input has not enjoyed the same financial and political support as that enjoyed by the business sector through the *Business Forum of the Americas*. The NDP rejects the decision to provide privileged treatment to the business sector of civil society above all others, and calls on the government to find ways of meaningfully engaging all segments of civil society in an equitable manner.

7. Canadians now have more than a decade of experience with the failed model of trade liberalization pursued by this government and the conservative government before it. They have watched the public policies that have made Canada a kinder, gentler nation being dismantled in order that Canada conform to the narrow free market ideology entrenched in the CUSFTA, NAFTA and WTO. Having already been forced to give up fisheries conservation, access to cheaper generic drugs, support for Canadian publishing, the auto pact's incentives for investment in Canadian jobs and communities, toxic fuel additive standards, and research and development support for Canada's high technology sectors, Canadians are clearly ready to rethink their trade policy. Negotiations on the FTAA provide an opportunity for Canada to take a new approach that places social, economic and ecological justice above the profits of multinational corporations. Unfortunately, the majority report fails to take up that challenge, and for that reason the NDP files this minority report.

APPENDIX 1
GLOBALIZATION, REGIONALISM AND CANADIAN TRADE STRATEGIES

In the last 30 years, the world trading scenario has changed dramatically. Regional trading blocs together with a maze of different trading arrangements between all possible combinations of countries and regions became the norm rather than the exception. ... This scenario raises important questions that should be posed: Are we complicating or facilitating trade? I think the jury is still out. However, if the FTAA consolidates some of the existing agreements, as opposed to adding another layer, it could facilitate trade. [Annette Hester, 31:1605-1615]

Globalization

Globalization refers to the growing economic and political integration and interdependence of countries by way of trade, investment, movement of persons and the dissemination of knowledge. It has of late been intimately associated with increased cross-border capital flows as well as trade in goods and services, and it has coincided with a rapid development and diffusion of new technology. The combination of technological change, much of it allied with declining communication and transportation costs, and public policy initiated changes, leading to greater liberalization of markets and reduced government involvement in the economy, has drawn economies closer and increased competition domestically and internationally.

Canada has been at the centre of this process, both initiating and responding to technology and policy. Because of its open economy and geographic proximity to the large and competitive American economy, Canada has had to be at the forefront of these developments. It has taken on an important role in re-engineering institutions and crafting new arrangements governing the international economic environment, the most recent being its participation in the Multilateral Agreement on Investment (MAI) negotiations sponsored by the Organization for Economic Co-operation and Development (OECD), but now residing with the World Trade Organization (WTO).

Illustrative of increased financial interdependence are cross-border transactions in bonds and equities as a percent of gross domestic product (GDP) which, for Canada, has risen from 3% in 1975 to 65% in 1990 and 358% in 1997 according to the Bank for International Settlements. Similar trends are observable in other developed countries.

The global stock of foreign direct investment (FDI) has risen from US $1 trillion in 1987 to US $3.5 trillion in 1997, involving about 53,000 multinational enterprises (MNEs) with almost 450,000 affiliates. Growth in global inflows of FDI has been substantially higher than growth in

world GDP and world trade (in terms of exports of goods and non-factor services),[1] suggesting that the expansion of international production has deepened the interdependence of the world economy beyond that achieved by international trade alone. The ratio of inward plus outward FDI stocks to global GDP is now 21%; and foreign affiliate exports are one-third of world exports.

In 1997, American companies were by far the largest investors abroad, parting with US $114.5 billion and thereby accounting for 27% of world FDI outflows, while the United States alone absorbed 23% of all FDI inflows (US $90.7 billion). China was the second largest recipient country of FDI at US $45.3 billion, while the United Kingdom was the second largest international investor country at US $58.2 billion. Among developed countries, Canada ranked twelfth as a recipient (US $8.2 billion) and eighth as an outward investor (US $13.0 billion) in 1997.

Foreign investment is of increasing importance to Canada both as a host country and especially as an outward investor. The outward stock of FDI originating from Canada has risen fivefold from US $22.6 billion in 1980 to US $137.7 billion in 1997, while its inward stock has risen more than two and a half times from US $54.2 billion to US $137.1 billion over the same period. Thus, the outward stock as a percentage of the inward stock has risen from 41.7% to 100.4% and Canada, in fact, became a net FDI exporter in 1997.

While more than two-thirds of the stock of FDI in Canada is from the United States, 68%, Canada's outward investment flows are now more diversified. Canada's stock of FDI in the United States, which was 70% of all Canada's outward investment in 1986, has now fallen to 53%. New destinations for investment are Western Europe, principally the United Kingdom and Ireland, and Latin America and the Caribbean, principally Barbados, The Bahamas and Bermuda.

At the centre of this globalization process has been the MNE or, as it is more fashionable to call it today, the transnational corporation (TNC). These seemingly denationalized and borderless corporate enterprises, bolstered by recent advances in transportation and communications technologies, have adopted flexible manufacturing techniques, sometimes called "just in time" production, inventory and delivery systems. These new systems permit corporate managers to reorganize production, out-sourcing the manufacture and assembly of selective components of their complex products from affiliates and strategic allies across national borders, to take advantage of the new trade policy environment sweeping the globe.[2] That is, the locations of critical stages of manufacture and assembly are being chosen to ensure that the entire production process more fully

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1 Merchandise goods exports grew by 6% per annum (p.a.) in real terms from 1948 to 1997 or by a factor of 17 for the period, while GDP grew, on average, by 3.7% p.a. or by a factor of 6. Unfortunately, data does not exist on FDI for the entire period; however, it is known that annual FDI expanded by 12% p.a. or, like that of the trade in goods, by a factor of almost 17, but in just half the time, between 1973 and 1997.

2 While TNCs appear to be borderless in their purchase and selling decision making, there is evidence, particularly Canadian evidence, suggesting otherwise. When adjusting for differences in wealth and distance, Canadians traded amongst themselves by a factor of 17 more than they traded with Americans before the NAFTA, and by a factor of 12 since then. So borders do matter, albeit probably less so today and even less likely to be so in the future than in the past (see McCallum, J., "National Borders Matter: Canada-U.S. Regional Trade Patterns," *American Economic Review*, v. 85, 1995, p. 615-23 and Anderson, M., and S. Smith, "Canadian Provinces in World Trade: Engagement and Detachment," *Canadian Journal of Economics*, v. 31(1), 1999, p. 22-38). In any event, it is the trend to borderless corporate decision making which is relevant for policy-making purposes.

exploits competitive advantages, whether because of economies of scale, scope or learning by doing, or because of greater factor specialization, wherever they may be found. The business sectors of most developed countries have thus internationalized their activities, weaving an intricate web of linked activities around the globe. However, they, in general, have not as of yet globalized their activities in the sense that their sales and production volumes are dispersed about the globe in proportion to domestic or regional economic activity.

The economic effects of these new global strategies extend beyond corporate competitiveness and profitability. Both inward and outward FDI conveys substantial economic benefits to both the host and home country. These benefits would be productivity gains arising from increased specialization, the faster diffusion of new technology to host countries and increased competition for domestic companies.

In terms of trade, however, the international economy of the postwar years, which largely featured cross-border transactions of goods and services between unrelated firms or individual residents of different countries with the exception of trade in raw materials, machinery and luxury items, has given way to a much more integrated trading environment. Parts and components of the more complex products are increasingly being traded across political borders between non-arm's length corporate entities for assembly nearer to their points of consumption. As a by-product of this revolution and lower tariff barriers, the past two decades has witnessed a blurring of distinctions between trade and investment as alternative means of accessing markets, exposing a complementarity between these once-believed substitute economic activities. In turn, there has been a notable decline in import-substitution production and related public policies in favour of export-oriented production and open trade and investment policy regimes as business is increasingly being conducted along global lines, having the effect of fusing national economies.

Much has been written about the demise of the nation-state as a consequence, but this conclusion is much too premature. Taking Canada and the United States as an example — two countries as close as one can find in this world — trade in merchandise goods is 12 times greater amongst Canadians than between Canadians and Americans after adjusting for differences in wealth and distance. This border effect, which is likely the result of social networks based on common nationality, culture and language, has an even greater impact on constraining cross-border flows of services, capital and emigration. There is, therefore, reason for greater reflection on the full extent and impact of globalization.

In the wake of the trend to globalization, the emergence of rules-based agreements (GATT, GATS, TRIMs, TRIPs, etc.), administered by the WTO, can in some sense be a manifestation or an extension of national sovereignty; but this would largely depend on the rules adopted.[3] That is, as international trade takes on a more significant proportion of overall economic activity and domestic markets become more integrated with each other, supra-national institutions and international

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3 As all policies are to some extent taken with a cost-benefit analysis in mind, including their differential impact on domestic and foreign firms, presumably a sovereign country would only become signatory to these international treaties if their net benefits outweighed their costs, including any loss in domestic sovereignty arising from them (further recognizing that sovereignty relates more to the ability to choose than to the actual choice made).

agreements provide an opportunity to extend national governance, at least providing national treatment governance, over the conditions in which cross-border trade is conducted, where they could not before. From the perspective of the nation-state, then, international legal agreements forge supra-national trade and investment institutions that maintain and complement the contracting parties' shared values and beliefs, thereby to some extent preserving and promoting national policies and cultures.

Globalization and Regionalism Reconciled

Globalization is not the only socio-economic force at work on the international scene. Regionalism, that is the coalescence of trade around regions such as Europe, North America and East Asia, through regional trade agreements (RTAs) is also a force with which policy-makers must concern themselves. So far the efforts to form (sub)regional trade blocs, free trade areas and customs unions have been a source of encouragement for the extension of trade benefits beyond national borders. But what about its effects on globalization and, more importantly, social welfare?

In some ways, the forces of regionalism are a restraining force of globalization and can have negative socio-economic impacts. Trade and investment diversion from low-cost sources outside the free trade region to higher cost sources within the region due only to preferential access through exemption from a tariff or an investment impediment they would otherwise face, which is a strict violation of the most-favoured nation (MFN) trade principle, is a direct result.[4] If this adverse consequence further diverts scarce political and trade negotiating resources away from, and these regional trade blocs are not merely stepping stones to, multilateral free trade, which most political economists agree is the optimum trade policy, part of the trade creation benefits of globalization are being usurped. Efficient production and the resultant creation of wealth, some of the prime objectives of the process of globalization, are thus being thwarted or at least stunted.

This view, however, may be too simplistic or shortsighted. Regionalism through regional free trade will continue to provide important dynamic gains from economic integration. These would be the realization of economies of scale and scope in production, increased competition pressuring corporate managers for the discovery of additional efficiency gains, improved flows of foreign investment and greater diffusion of technological innovations, the benefits of which will mostly accrue to their consumers, shareholders and employees. The resultant higher incomes within the regional trade area could then be expected to draw in more imports, both from within and outside the region. Moreover, regional integration of this kind extends the social networks beyond national borders that foster trade that would not otherwise exist. So regionalism may in fact be complementary to globalization, and regional agreements and institution building may just be a

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4 The WTO/GATT was notified and approved of 144 RTAs over the years, 80 of which are still in force. The Committee is, however, unaware of the stringency of the international body's requirements for acceptance.

manifestation of the need for more comprehensive rules to properly govern the greater economic integration taking place at this level.[5]

Indeed, regionalism may be a necessary stepping stone to globalization beyond some threshold trade barrier level (10-20% tariff rates on goods). One must emphasize the term "may," because it is simply not known at this time whether regional trade agreements encourage or discourage trade liberalization on a global scale. Some would argue that a smaller number of participants to a trade negotiation (34 in the case of the FTAA as opposed to 134 in the case of the WTO) makes cooperation and concensus building more likely. Hence, the "building block" view. The modelling of the WTO's dispute settlement mechanism on that of the NAFTA provides evidence in support of this position. Furthermore, the expansion of the CUSFTA to include Mexico under the NAFTA, followed by the inclusion of Latin America and the Caribbean with the initiation of the FTAA negotiations, although its objectives will probably be less encompassing, can be seen as evidence which would dispel impressions that the formation of the CUSFTA and European Union were undertaken to be a "club of developed countries." Yet others would argue the opposite, whereby the availability of regional partners frustrates cooperation and concensus building at the global level. Hence, the "stumbling block" view. Apart from anectdotal evidence, nothing could be found to support this position.

A Free Trade Area of the Americas (FTAA) and Canadian Trade Strategies

Without a definite answer to the question of whether regionalism is a building block or a stumbling block to globalization, a trade strategy of simultaneous pursuit of free trade at the global, regional and bilateral levels would appear optimal; particularly, given that unilateral reductions in tariffs have proven to be politically impossible below the 10-20% level in terms of goods and that the Uruguay Round of the GATT took 12 years to complete. A multi-track approach to trade negotiation would then provide secure and certain access in foreign markets, as well as national treatment, for the products and services of a country's citizens and MNEs under the umbrella of a rules-based trade environment as widely and early as possible. As one witness before the Committee put it:

> Canada has traditionally taken what has been characterized as a more pragmatic role, especially in the mid-1980s when it undertook negotiations with the United States. It decided that the costs and the length of time needed to negotiate multilateral agreements meant that it should look elsewhere and try to push its agenda in a bilateral forum rather than on a multilateral stage. Another argument made by proponents of the Canada-U.S. FTA was this idea that if we make it here, we can make it anywhere, and that if we open up our trade to the Americans, Canadian companies will become competitive and be able to compete on the world stage. ... There may be something to it that this type of agreement is a step toward multilateral negotiations ... [I]t may make good strategic sense for Canada to pursue and push for the free trade agreement of the Americas, as that is, and is becoming, a very important region of the world. ... I think I would conclude that Canada could push its agenda at both the FTAA and the WTO, and that those aren't inconsistent objectives. I argue that Canada

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5 RTAs also have political objectives in mind. For example, Canada began negotiations of the Canada-U.S. Free Trade Agreement (CUSFTA) in view of a protectionist American legislature; *Mercado Común der Sur* (MERCOSUR), which is more a political accord than a document about tariffs and trade, had similar stimuli; and the North American Free Trade Agreement (NAFTA) emerged, in part, from the United States' desire to stem the inflow of illegal immigrants across the Rio Grande.

> should continue with its multi-track approach to trade and investment ... [Eugene Beaulieu, 125:900]

In effect, the WTO forum is not the only game in town and the parallel pursuit of free and freer trade at all three levels would be consistent with maximizing a country's trade benefits. Canada, with its signings of the CUSFTA in 1988, Canada-Israel Free Trade Agreement in 1989, the NAFTA in 1994, the Canada-Chile Free Trade Agreement in 1997, and its inclusion in free trade talks with the European Union (EU), the European Free Trade Association (EFTA), the Asia-Pacific Economic Cooperation (APEC) forum, and the FTAA with the countries of the Organization of American States (OAS) concurrently while negotiating a millennium WTO round, is apparently already well embarked on this strategy.

However, two caveats should be heeded. First, trade and investment patterns in the Americas have established the United States as the primary economic hub of the Western Hemisphere (Brazil and Canada are secondary hubs in the trade of goods and FDI, respectively), while all other countries of the Americas are akin to the outer end-points of a spoke in a hemispheric *hub-and-spoke* network (see Chapter 2). In the interest of strengthening this economic network, Canada is well advised to pursue free trade more vigorously with Latin America and the Caribbean in the FTAA forum before venturing on its own and concluding any further bilateral free trade deals with Latin American countries specifically or their regional institutions, such as the MERCOSUR and Andean Group, generally. Given the dominance of the United States within the region, an overarching hemispheric agreement, comprising a greater number of participants in the negotiations, promises far more liberalization and deeper economic integration that would be favourable to Canada than the existing web of bilateral agreements.[6]

Second, the multi-track approach to trade negotiation can only add to the problem of duplicative and overlapping agreements conferring and imposing differential rights and obligations. Some degree of uncertainty and confusion has been the result. Perhaps a hierarchy or ordering of agreements and venues should be considered by the contracting parties.

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[6] This regional *hub-and-spoke* trade and investment network is often analogized in terms of a "rimmed wheel." In this analogy, the legal agreements of a RTA true the wheel to a circular form, thereby ensuring its efficient operation (i.e., maximum regional trade creation). Bilateral agreements, on the other hand, are restricted to the tightening of a few spokes of the wheel, possibly leading to the rim's warpage and to the wheel's inefficient operation (i.e., regional trade diversion).

APPENDIX 2
ECONOMIC AND TRADE POLICIES IN LATIN AMERICA AND THE CARIBBEAN

Bloated corporate statist economies are now privatized, reformed, more competitive, and more open ... [G]overnments began to support ... good banking reforms. Generally, the financial system is in a more resilient shape today than it was, for example, six years ago. So in a word, Latin America is more resilient, more able to respond and withstand the shocks and turbulence of world capital market uncertainties and trade and investment ups and downs than they have been in the past. [Bob Clark, 25:1555-1600]

Latin America and the Caribbean

Latin America and the Caribbean include 46 countries and territories (see Exhibit A2.1) with a population of 518.4 million people. Economic activity in the region is estimated at US $2 trillion as measured by its constituent countries' combined gross domestic product (GDP). By simply dividing the latter statistic by the former, Latin American and Caribbean economic welfare can be considered modest at US $3,917 per individual in 1997.

Trade Developments in Latin America

Latin America has experienced several waves of trade regime reform over the past half century. From the mid-1950s through to the end of the 1980s, Latin America had, for the most part, a restrictive trade regime in place, first relying heavily on import quotas and high tariff rates, followed by a shift away from quotas towards very high tariffs and other non-tariff barriers. However, with the collapse of their economies in the 1980s, virtually all Latin American countries reversed direction, opting instead for the formation of subregional free trade areas and customs unions, along with substantial, unilateral tariff reductions with their entry into the World Trade Organization (WTO).[1] While riding the crest of this newest wave has been a trying financial balancing act — there being the occasional external balance of payments crisis in the transition period[2] — the reversal in trade policy has, in general, been successful.

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1 The earliest attempts at economic integration took place in the 1960s with the formation of the Latin American Free Trade Association (LAFTA or ALALC using its spanish acronym) and signed by Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela; CACM in 1960; the Caribbean Free Trade Association (CARIFTA) in 1965; and the *Pacto Andino* in 1969, which originally included Chile, Colombia, Ecuador, Peru and later Venezuela with Chile withdrawing. Somewhat paradoxically, these formative free trade areas, customs unions and common market arrangements were seen as vehicles to speed up the industrialization process of their small economies by allowing them to achieve greater economies of scale in production when complemented by import-substitution policies.

2 Brazil was a latecomer in this trade and macroeconomic stabilization policies reversal movement and is still in the throes of this transition.

Exhibit A2.1
Latin America and the Caribbean

Source: Department of Foreign Affairs and International Trade.

Perhaps an abbreviated historical summary would shed more light on Latin America's economic experience and the need for reform of its restrictive trade regime. Since the mid-1950s, Latin American countries pursued structuralist economic policies, spear-headed by the import-substitution strategy, which hold that developing countries are better off industrializing behind high protective tariffs and restrictive import quotas. Trade strategies premised on specializing production in commodities and manufactures where there was a comparative or competitive advantage were discarded in favour of nurturing home-grown companies and industries that are shielded from international competition. Export subsidies, even though they by and large

achieve the same trade objective as a tariff, were seldom employed as governments clearly recognized these privileges as a significant cash drain on their balance sheet; in contrast to a tariff which would show up on the government's books as a tax revenue. They were, nevertheless, made available to specific sectors in regions with strong political lobby groups, such as in Mexico's *maquiladora* and Argentina's Tierra del Fuego regions.[3]

It took a while before Latin American officials realized the full impact of their restrictive trade policies, possibly because their effects were intertwined with those of other policies, such as the highly stimulative macroeconomic stabilization strategies of the 1970-80s, making disentangling and distinguishing their respective economic impacts difficult. These policies would include generous government services and programs to the public, financed by equally easy monetary conditions and heavy foreign borrowings, thinking that they could buy greater economic prosperity and a lower unemployment rate at the price of more inflation. This proved correct in the short term, but this favourable mix of economic outcomes could not be sustained once everyone adjusted their expectations to the new underlying financial realities created by these expansionary public expenditure and credit policies. That is, once labourers, managers and capitalists together demanded and got inflation protection for their personal efforts and investments, thereby dissipating the financial stimulus provided by their monetary policies, economic growth would grind to a halt and the unemployment rate would creep back up to traditional levels. It would not, therefore, be until the late-1980s when Latin American trade officials could discern the impact of their restrictive trade policies and they were unequivocally negative (see Box A2.1).

From a statistical perspective, the 1970s witnessed these stimulative macroeconomic policies generate tremendous growth for Latin America, in the order of 5.4% per annum (p.a.), but the economic benefits were short-lived. Over the longer term, these strategies only served to generate high inflation rates, high nominal rates of interest and a lower national savings rate. In fact, hyperinflation in the order of 8,000% p.a. in Bolivia in 1985, 3,080% p.a. in Argentina in 1989, 7,650% p.a. in Peru in 1990, and 2,489% p.a. in Brazil in 1993 were observed. Even higher nominal interest rates followed, but to the extent that interest rate ceilings were imposed by fiat, the savings rates of these economies collapsed (Bolivia, Chile, El Salvador, Guatemala). The end result of these poor financial conditions was declining domestic investment, languishing labour productivity, non-competitive wage rates and unsustainable high domestic currency values. To add insult to injury, the region's terms of trade declined 47% between 1980 and 1989.

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3 The Tierra del Fuego free trade zone benefited from an industrial investment subsidy estimated at US $226 million in 1994 (see Liepziger et al., "MERCOSUR: Integration and Industrial Policy," *World Economy*, 1997, p. 69-87).

Box A2.1
An Economic Primer on Import-Substitution Trade Strategies

The import-substitution model had its birthplace in Latin America in the 1950s, but in economic terms it is really just a new twist on the old mercantilist protectionist trade theme. The import-substitution strategy is founded on two separate arguments: (1) the terms of trade (i.e., the relative price of exports to imports) will turn against the regions that specialize in the manufacture of primary products; and (2) infant manufacturing industries of developing countries need temporary protection from competition with established producers of developed countries, who would be resting on their "pioneering" lorals, to realize any comparative or competitive advantage potential they might possess or could create. It differs from the mercantilist strategy in that the primary economic instrument of commerce in the tariff-protected industry is often incorporated under the state charter, rather than the private charter. By engaging the state-owned enterprise, the government can directly retain in the public domain the economic profits resulting from the restraints of trade rather than relinquishing them to a private corporation, only to tax them back through a royalty scheme after expending considerable resources regulating and monitoring the private corporation's performance. A state-owned enterprise usually requires less state regulation to obtain a given obtainable outcome but, nevertheless, entails its own set of economic inefficiencies that Latin American bureaucrats had apparently concluded to be less costly.

Restrictive trade policies, in particular import-substitution policies, have very predictable short-, medium- and long-term economic effects:

In the short term, the fiscal budgets of national governments will be bolstered by the tariff revenue, enabling them to provide their citizens and businesses with expanded access to services and programs.

In the medium term, some significant foreign manufacturers facing high tariff walls will seek to get around them by establishing new production facilities in the tariff-protective countries, either directly through investment or indirectly through licensing their know-how and intellectual property to local firms. International trade in capital and technology will supplant international trade in the more lucrative and capital-intensive goods and, as a by-product, a FDI-led economic boom in the region will ensue. The surge in FDI will also create pressure for an appreciating home currency and, in turn, a deteriorating current account, but this is sometimes arrested by the adoption of a fixed currency exchange rate regime, pegging its external value at some arbitrary level of a (basket of) marker currency(ies) such as that of a key trading partner(s), and the implementation of an effective sterilization plan of the positive foreign currency flow.

In the longer term, after foreign capitalists recoup and repatriate the retained earnings of their investments, tariffs only serve to reallocate production among existing domestic industries, which usually involves economic losses due to a misallocation of resources that follows. That is, tariff protection is not a zero-sum wealth transfer in which the gains accruing to the vested interests of tariff-protected industries are equal to the losses of consumers who must additionally pay these tariffs. Moreover, tariffs, which are often said to be imposed on a temporary basis until the infant industries they are protecting reach maturity, will inevitably be made permanent. They will be made a permanent industry feature because the government bureaucrats who purport them as a temporary measure have never demonstrated any special expertise beyond that of private investors, enabling them to more accurately forecast in which industries and companies a comparative or competitive advantage would develop. This oversight leads, more often than not, to the wrong firms (often state-owned enterprises) and industries getting the tariff protection and supplemental financing. The terms of trade are also unlikely to improve as a result of a tariff, precisely because the markets for goods and services of these countries are small in world terms and cannot be expected to exert any significant long-term influence over prices set in world markets.

When the cost of these lost opportunities are added to the cost-of-living increases embodied in the tariffs and the additional lobbying costs expended to obtain the tariff protection, not to mention the ongoing costs of retaining this privilege, they will prove to more than offset the relative wage and price inflation arising in the tariff-protected industries. A lower overall standard of living for the residents of the tariff-protected countries can then be expected.

As foreign lenders and other short-term capital providers began to reverse course, it would not be long before Latin America's economic bubble would burst. For without unlimited foreign currency reserves or the credit to obtain them, their pegged currency exchange rate policies were

destined for devaluation, the only question being when and by how much. Even when these currency regimes were accompanied by a regulatory control framework on foreign capital, which attempted to manipulate increasingly global financial markets in ways to dampen the outflow of portfolio and other flight capital from the region while simultaneously stemming currency speculation, they too proved wholly unsuccessful.[4]

By the end of the 1980s, after considerable economic contraction throughout the region, Latin America's GDP managed an average annual growth rate of only 1%. Indeed, five of 17 Latin American countries experienced negative growth throughout the 1980s, one had no growth, and only four countries recorded more than a 2% annual growth rate in the decade. Latin America thus suffered its largest and most protracted economic decline since the Great Depression of the 1930s.[5] As it turned out, the region's restrictive trade and expansionary macroeconomic policies only served to raise the cost of living, as their economic planners woefully misallocated resources to inefficient economic activities. The 1980s would eventually be coined by regional commentators as Latin America's "lost decade."

In the end, no less than 18 Latin American countries restructured their debts with their creditors in the 1980s. Under advice from the International Monetary Fund and World Bank, these countries also began to exercise more responsible and sustainable fiscal and monetary policies. Indeed, Latin America has progressively tidied up its financial problems to more manageable levels and a new wave of liberal trade policy has taken hold. Three sets of reforms were put in place: (1) the removal of many protectionist policies, including unilateral tariff reductions and a general shift from import quotas to tariffs when protection from foreign competition is granted; (2) less government intervention into the economy and greater reliance on liberalized markets with the deregulation and privatization of firms in many key sectors; and (3) the conduct of more conventional macroeconomic stabilization policies that are geared to produce stable long-term growth. By and large, these economic reforms took place or were phased-in in this chronological order as well.

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4 These regulations, sometimes referred to as capital controls, would include time reserve requirements on capital inflows and repatriation restrictions on capital outflows. They can be characterized respectively as entry and exit barriers to capital mobility that can either forestall or impede foreign capital entry from the outset or prolong the stay of pre-committed foreign capital beyond a period which investors might deem compatible with their risk tolerance. An unintended side-effect of these capital controls is, therefore, to restrict the country to narrower, more costly investor types, thereby raising the domestic cost of capital in the longer term.

5 Wrobel, Paulo S., *A Free Trade Area of the Americas in 2005?*, International Affairs, 74(3), 1998, p. 551.

Table A2.1 Selective Economic Statistics of Latin America							
Countries	Average Tariff Rates		Proceeds from Privatization 1990-96 (US$ million)	Average Annual Growth in GDP		CPI Annual Inflation Rate	
	1985	1997		1980-89	1990-97	1986	1997
Mexico	34%	13.1%	24,929.3	1.9%	2.9%	86.2%	17.5%
Panama	—	—	302.9	1.4%	4.8%	0.5%	1.3%
Chile	36%	11.0%	1,107.3	3.0%	8.0%	22.1%‡	5.8%
CACM							
Costa Rica	92%	11.2%†	$77.7	2.2%	3.5%	11.8%	13.3%
El Salvador	—	10.1%†	—	–0.4%	5.3%	33.3%‡	4.6%
Guatemala	—	—	—	0.9%	4.1%	37.0%	9.2%
Honduras	—	—	79.4	2.4%	3.7%	4.2%	20.7%
Nicaragua	—	—	141.5	–1.5%	2.7%	681.7%‡	9.2%
Andean							
Bolivia	20%	9.7%	$89.7	0.2%	4.1%	211.4%‡	6.7%
Colombia	83%	11.7%	4,606.3	3.7%	4.1%	18.9%	17.7%
Ecuador	50%	13.0%	191.9	1.7%	3.5%	23.0%	30.7%
Peru	64%	13.3%	9,524.6	1.2%	5.5%	77.9%	6.5%
Venezuela	30%	12.0%	6,503.1	–0.7%	3.3%	11.5%	37.6%
MERCOSUR							
Argentina	28%	11.3%	16,323.7	–0.7%	5.6%	75.7%‡	0.5%
Brazil	80%	11.9%	22,402.1	1.6%	3.0%	147.1%	6.9%
Paraguay	72%	9.6%	44.0	3.0%	2.7%	31.6%	7.0%
Uruguay	32%	10.2%	4.0	0.0%	4.1%	71.0%‡	17.7%

— not available; † 1995; ‡ GDP Deflator

Sources: IMF, *Structural Policies in Developing Countries*, 1994; World Bank, *World Development Indicators*, 1998; U.S. Trade Representative, *Foreign Trade Barriers*, 1998, ECLAC, *Preliminary Overview of the Economies of Latin America and the Caribbean*, 1998.

Latin America's conversion to freer trade is, in part, demonstrated by the extent of tariff reductions reported in Table A2.1; average country tariff rates of 20% to 92% in 1985 are now in the order of 9.6% to 13.3%. Furthermore, all Latin American countries are members of the WTO/GATT; almost all are, or are in various stages of becoming, compliant with their WTO trade obligations. State-owned enterprises also play a much smaller role in the economies of Latin America. Indeed, the privatization of numerous state-owned enterprises has generated in excess of US $86.3 billion for Latin American governments between 1990-96.

Finally, the shift in emphasis of their macroeconomic policies towards stable economic growth and lower inflation has also been successful. For example, the standard deviation in annual GDP growth for Latin American countries declined from 10.3 to 7.1 percentage points between 1984-90 and 1991-97, respectively, signalling a more stable economic climate in the 1990s. This economic performance compares to an increase in the standard deviation of GDP growth from 4.7 to 5.3 percentage points for Canada and a slight decline from 4.3 to 3.9 percentage points for the United States over the same periods.[6] On the inflationary front, price increases, as measured by their consumer price indexes, declined significantly for 12 of 18 countries in the latter decade. There are also no more triple- or quadruple-digit annual rates of inflation in Latin America anymore; single-digit inflation is not now uncommon, but double-digit rates are more the norm. Indeed, by 1997, annual inflation averaged 10.1% throughout Latin America. Not that there is a lesson to be learned by countries with a poor track record in monetary policy, but it is interesting to note that the two countries adopting the U.S. dollar as its domestic currency (or as a part of it), Panama and Argentina, experienced the lowest price inflation of the region throughout the past decade.

Interestingly, these prudent macroeconomic policies in combination with liberalized trade policies have had other — some would claim unexpected — economic payoffs. When comparing the performances of Latin American GDPs over the 1980-90s, every country, except Paraguay, experienced a higher average annual growth rate in the 1990s. Moreover, no national economy of Latin America contracted throughout the 1990s in contrast to the many that did in the 1980s. The average annual growth rate of Latin America's GDP has been 3.7% so far this decade, featuring a range starting from 2.7% in Nicaragua to 8.0% in Chile. In contrast, Latin America posted an average annual growth rate in GDP of 1% throughout the 1980s, with a range beginning with -1.5% in Nicaragua and ending with 3.7% in Colombia. So a period of stable growth in the 1990s coincided with, or may have been the cause for, a protracted period of relatively high growth as well.

As a consequence of the policy actions taken, many countries of Latin America are considered by some as relatively promising markets for trade and investment. Table A2.2 provides selective financial data for the region, most notably, Latin America maintained a foreign debt balance of US $540 billion in 1997. The region also demonstrated that, except for a handful of countries, every country has taken important strides in reducing its foreign debt exposure relative to GDP. Taken together, the region's foreign debt-to-GDP level was almost halved, from 56.9% to 32.3%, between 1986 and 1997. The curtailed fiscal policies that has restrained the region's dependence on foreign debt is also showing up in their ability to service this debt. Foreign debt service-to-exports levels have substantially declined from 50.7% to 37.2% between 1986 and 1997. The best performers appear to be those whose terms of trade improved in the period (i.e., Costa Rica, El Salvador, Uruguay). Conversely, the poorest performers appear to be those countries whose terms of trade declined in the period (i.e., Nicaragua, Honduras, Colombia). In any event, private capital which trickled into Latin America at the beginning of this decade is now gushing in. Annual net private

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6 International Monetary Fund, *International Financial Statistics Yearbook*, various years.

capital flows increased more than eightfold since 1990; in fact, while US $11.2 billion in net private capital flowed into the region in 1990, the year 1996 saw a US $93.7 billion inflow.[7]

Table A2.2
Selective Financial Data of Latin America

Countries	Terms of Trade (1995 = 100)		Foreign Debt (US$ millions)	Foreign Debt-to-GDP		Foreign Debt Service-to-Exports	
	1986	1997	1997	1986	1997	1986	1997
Mexico	112	100	50,381	78.3%	37.3%	58.8%	30.6%
Panama	—	109	7,647	119.4%	87.1%	24.5%	47.1%
Chile	79	78	31,440	86.6%	41.4%	52.4%	20.9%
Costa Rica	74	93	3,548	103.9%	37.2%	35.7%	13.9%
El Salvador	80	124	3,182	49.4%	27.8%	28.6%	13.7%
Guatemala	105	91	3,914	38.7%	22.0%	31.9%	11.8%
Honduras	113	111	3,998	78.1%	85.1%	29.9%	27.0%
Nicaragua	113	88	5,887	238.8%	291.7%	13.3%	38.8%
CACM			**20,529**	**86.9%**	**45.2%**	**30.6%**	**16.9%**
Bolivia	310	96	5,284	140.8%	67.6%	35.9%	32.4%
Colombia	134	102	31,777	44.0%	33.2%	35.4%	44.0%
Ecuador	151	92	15,214	82.9%	83.9%	46.2%	31.7%
Peru	66	97	30,338	82.8%	47.6%	21.8%	34.5%
Venezuela	—	103	39,942	56.8%	45.7%	49.5%	36.9%
Andean			**122,555**	**61.8%**	**44.9%**	**40.9%**	**37.9%**
Argentina	—	98	104,539	47.3%	32.4%	86.9%	59.0%
Brazil	80	101	193,598	40.7%	23.6%	48.5%	52.8%
Paraguay	—	111	2,009	58.9%	20.5%	22.3%	5.4%
Uruguay	83	97	7,359	66.7%	36.6%	33.9%	19.5%
MERCOSUR			**307,505**	**43.1%**	**26.2%**	**56.3%**	**51.2%**

— not available

Source: World Bank.

For Latin America, the political focus now turns to the next generation of reforms that would solidify as well as build upon the economic gains achieved so far. On the immediate agenda would be the adoption of common minimum standards of financial regulation and supervision, credible codes of conduct in implementing fiscal and monetary policies, and sound corporate governance principles to improve the institutional framework in which financial markets operate. Over the longer term, the development of autonomous public institutions, such as independent central banks and judiciaries, and the encouragement of higher domestic savings rates to be able to invest more in human and physical capital, such as education and transportation and communications infrastructure, which

7 World Bank, *World Investment Report 1998.*

tend to yield higher long-term economic returns, would be advisable. It is further expected that the MERCOSUR might first shore up its institutional arrangements and broaden its scope to include the Andean Community in accomplishing some of these tasks and thereby improve Latin America's readiness for any free trade agreement with North America.

The Caribbean Challenge

The Caribbean Basin comprises 25 countries and territories as depicted in Exhibit A2.1, not including Belize, Guyana and Suriname which are members of the CARICOM, a subregional association of 14 countries devoted to free trade within, and for some members a common or single market of, the Caribbean. These island and coastal nations are small economies; their populations not being sufficient in size to allow firms to exploit extant economies of scale in the production of manufactures. Like Canada, a small economy which exports almost 40% of its GDP, the Caribbean countries have had to become open trading economies in order to obtain and sustain an adequate standard of living for their residents. Indeed, more than 40% and sometimes as much as 50% of a Caribbean country's GDP is exported.

The Caribbean countries do, however, differ significantly from the rest of the Americas in that their small geographic size means that each country, on its own, is not endowed with a commensurate diversity of natural and human resources to provide an adequate comfort level of economic security in the case of an economic or natural disaster (i.e., sharp declines in the terms of trade in the case of the former; hurricanes, tornados, etc. in the case of the latter, see Box A2.2). As history would have it, the region's staple industries evolved to include tourism, financial centres and agriculture (sugar, bananas, citrus fruits, etc.). For example, in The Bahamas tourism accounts for as much as two-thirds of its GDP and 80% of its export earnings; it accounts for 60% of Antigua & Barbuda's GDP; and 55% of Bermuda's GDP. On the other hand, selective Caribbean countries have been able to develop other sectors of their economies, most notably, those endowed with industrial natural resources such as minerals and metals (bauxite, alumina, aluminum, gold, etc.), forest products, oil, natural gas and petrochemicals. In addition, some Caribbean countries have reaped a competitive advantage in the production of simple industrial products, such as textiles and electronic products and components, based primarily on cheap labour, carried out in what has become known as the tax-free export processing zones, and favourable North American trade legislation.

Box A2.2

The Impact of Natural Disasters on the Region's Economy

The loss of life, economic damage and destruction of productive capital caused by natural disasters have been particularly severe in 1998. The year was marked by two types of natural phenomena in particular — **El Niño** and hurricanes **Georges** and **Mitch** — whose effects will surely continue to be felt in the medium term in view of the amount of time it will take to rebuild the countries' stocks of capital goods and infrastructure. The region's latest bout with El Niño, which began in 1997, included both floods and droughts that caused an estimated US $15 billion in damage and production losses. In the Andean subregion alone (Bolivia, Colombia, Ecuador, Peru and Venezuela), the damage is estimated at US $7.5 billion. El Niño's main impact has taken the form of diminished income and lower living standards for large groups of people, especially among the poorer sectors of the population.

El Niño caused a great deal of damage in the fishery and agricultural sectors due to the extensive flooding it caused in 1997 and 1998 along the coasts of Peru and Ecuador and in various areas of Argentina, Chile, Brazil and Paraguay. Housing, social infrastructure and production facilities were destroyed or damaged, and production levels were substantially lower in manufacturing, commerce, mining and tourism. Droughts occurred in large areas of Colombia, Venezuela, Mexico, the Central American nations, a number of Caribbean countries and — at least in 1998 — some South American countries. The worst impact of the droughts was in the agricultural sector. Countries that rely on hydroelectric power had to resort to more expensive thermoelectric facilities. In addition, the drought increased the likelihood of fires, resulting in the loss of large tracts of forest land and other types of environmental damage.

Hurricane Georges made its first landfall on the island of Antigua on 20 September. After sweeping over a number of other islands in the Antilles, it continued on a path that took in Puerto Rico, the Dominican Republic, Haiti and Cuba, causing heavy damage (estimated at US $1.35 billion in the Dominican Republic and US $400 million in Saint Kitts and Nevis). In late October and early November, Central America was hit by hurricane Mitch, one of the most destructive hurricanes of this century. Mitch left such a wide trail of death and destruction in its path that the magnitude of that damage has yet to be calculated. Honduras was the hardest-hit country. Nearly 6,000 people died and another 300,000 lost their homes, means of livelihood and jobs. In Nicaragua, 19% of the population was affected. Although the damage was less severe in Guatemala and El Salvador, the repercussions are significant because the worst destruction occurred in highly vulnerable areas of these countries.

The damage sustained by the region's infrastructure is considerable, and trade flows among these countries have been interrupted because of the destruction caused in the transport sector. Electrical power generation and distribution capabilities have also been impaired, as have drinking water and sanitation services. The damage to the agricultural sector is estimated at over US $2.3billion. In the manufacturing and services sectors, the direct damage is more limited, but the projected loss of income may depress the level of economic activity in the subregion. Customs-free areas and export processing zones (EPZs) for *maquila* industries do not appear to have sustained a great deal of direct damage, but they have been hurt by short-run disturbances and by the higher cost of some services, such as port transport and shipping.

In summary, preliminary estimates put the direct and indirect losses at over US $7 billion, including replacement costs. Nearly 68% of the damage is concentrated in Honduras and another 17% in Nicaragua. The State's response capacity in the face of this emergency has been reduced both by the increased expenditures required to deal with the most urgent needs and by the decrease in tax revenues occasioned by the drop in production. This situation poses major challenges with regard to institution building and fiscal administration. The international community is making a determined effort to help rebuild the subregion and is extending over US $6 billion in soft loans for reconstruction projects. Some creditor countries have also offered to forgive portions of these nations' external debts.

Source: ECLAC, *Preliminary Overview of the Economies of Latin America and the Caribbean*, 1998, p. 16.

The United States and Canada already extend preferential treatment to Caribbean export goods in their markets under the Caribbean Basin Initiative (CBI) and CARIBCAN, respectively.[8] These programs provide the Caribbean countries with tariff-free access on a very broad range of goods, including agricultural products. While it may at first glance appear that these preferential trade arrangements are one-sided deals in the Caribbean's favour, North America, in particular the United States corporations, benefits tremendously from them as well. This special access to the United States market, along with tax-free operations in export processing zones, allows North American firms to take advantage of relatively low wages in the Caribbean Basin while sharing the production and assembly of labour-intensive products (primarily apparel, footwear and simple electronics) to improve their ability to compete with imports, particularly from Asia, in their domestic market.

FDI in the Caribbean Basin has many sectoral destinations, most notably tourist resorts, petroleum, mining and services, but much of it finds its way into the establishment of assembly plants, usually in export processing zones. Indeed, the spike in FDI flows into the Caribbean Basin since the mid-1980s, following the sharp devaluations of national currencies associated with the region's debt problems, is closely linked to the expansion of assembly plants.

More specifically, FDI flows into the Caribbean island and coastal nations amounted to US $4 billion in 1997, which is more than double the average annual inflows of US $1.8 billion in the late-1980s. Consulting Table A2.3, as of 1997, FDI stocks of the Caribbean are in excess of US $47.3 billion; Bermuda garnering the lion's share with more than 60%. Carrying a foreign debt charge estimated at US $13.9 billion in 1997, the Caribbean, like Latin America, is in much better financial shape than a decade ago. Foreign debt-to-GDP levels of all but four Caribbean countries are down significantly, with the CARICOM showing an overall decline from 65.9% to 52.6% between 1986 and 1997. The foreign debt service-to-exports level of the CARICOM has declined slightly from 18.6% to 14.8% in the same period. The Caribbean remains, therefore, a modestly promising market for trade and investment.

Nevertheless, the challenges presented by a hemispheric free trade agreement will be formidable because the region has a far more vulnerable economic profile, quite different from most of their continental counterparts pursuing an FTAA. These challenges will deserve careful attention in the transition period. Given these atypical natural and economic circumstances, one might question why these Caribbean politicians and officials are contemplating a free trade agreement with the Americas.

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8 Under the CBI and the General System of Preferences, many products produced in the Caribbean enter the United States duty free provided they meet one of two requirements: (1) at least 35% of the product's value originated in the Caribbean; or (2) at least 20% of the product's value originated in the Caribbean if not less than 15% of its value originated in the U.S. or Puerto Rico.

Table A2.3
Selective Financial Data of the Caribbean

Countries	FDI Stocks 1997		Foreign Debt	Foreign Debt-to-GDP		Foreign Debt Service-to-Exports	
	Inward	Outward	1997	1986	1997	1986	1997
	US$ millions						
Antigua & Barbuda	484	—	—	—	—	—	—
Bahamas, The	668	1,628	—	—	—	—	—
Barbados	256	35	—	—	—	—	—
Belize	191	12	288	53.6%	45.0%	16.0%	13.3%
Dominica	230	—	110	51.1%	47.2%	5.0%	7.0%
Grenada	208	—	120	39.2%	40.7%	6.0%	9.0%
Guyana	—	—	1,421	323.8%	182.2%	37.5%	16.6%
Jamaica	1,682	5	4,110	167.0%	99.4%	51.9%	16.3%
Monserrat	—	—	—	—	—	—	—
St. Kitts & Nevis	285	—	58	18.0%	23.7%	1.0%	6.0%
St. Lucia	578	—	152	12.1%	23.8%	1.0%	3.2%
St. Vincent & Gren.	241	—	86	22.8%	31.2%	3.0%	14.0%
Suriname	—	—	118	6.0%	22.2%	1.3%	0.7%
Trinidad & Tobago	4,294	34	2,162	39.2%	36.6%	19.4%	17.9%
CARICOM	**9,117**	**1,714**	**8,625**	**65.9%**	**52.6%**	**18.6%**	**14.8%**
Aruba	196	—	—	—	—	—	—
Bermuda	28,505	3,732	—	—	—	—	—
Cayman Islands	4,122	—	—	—	—	—	—
Cuba	70	—	—	—	—	—	—
Dominican Republic	2,529	64	4,171	60.2%	28.4%	24.9%	10.9%
Haiti	2,397	—	1,057	31.8%	37.5%	23.5%	8.9%
Netherland Antilles	349	26	—	—	—	—	—
Other Caribbean	**38,168**	**3,822**	**5,228**	—	—	—	—
Caribbean	**47,285**	**5,536**	**13,853**	—	—	—	—

— not available

Source: World Bank.

The answer to this question lies in the recent deterioration in the relative competitiveness of Caribbean exports entering the American market subsequent to Mexico's passage of a free trade agreement with the rest of North America in 1994. The implementation of the NAFTA represented a major challenge to the assembly operations of the Caribbean Basin, particularly those in the apparel industry, because Mexican firms benefited from the equivalent of a six-point tariff advantage, no quotas on many items, and local inputs counted as having North American content. Should such a deterioration extend to Central and South America within an FTAA that did not include the Caribbean, an FTAA would immediately become in their economic interest. Moreover, it would be

economically and, indeed, politically risky for the Caribbean to increasingly polarize from the rest of the Americas and become more dependent on foreign aid to maintain their current standard of living, particularly as this aid has been declining with North American budget restraints being put into effect and increasing pressures for financial assistance from the newly formed East European market economies. "Trade not aid" has become a fashionable slogan in selective political circles of the CARICOM.

The immediate challenge of an FTAA for the Caribbean will be both a political one and an economic one, involving: (1) a shift away from tariffs towards a value-added tax (VAT); and (2) industrial restructuring that would include rationalizing production on a CARICOM subregional basis. As was stated above, although put in a different way, what these island nations produce is not, in general, what they consume. For example, it is estimated that 70% of market goods in both St. Kitts & Nevis and the Dominican Republic are imported.[9] Under these economic conditions, an *ad valorum* tariff, apart from its discriminatory effects, is very much like a consumption tax, such as a sales tax or VAT which have a similar broad tax base. When one further factors in the relative ease of administering such a tax at the port of entry, as well as the little public opposition that a hidden tax such as a tariff will encounter, it is not surprising that tariffs are a significant portion of government revenue. In fact, tariffs are the main source of revenue for most of these countries, accounting for as much as 60% of government revenues in The Bahamas. Caribbean countries will, therefore, need time to reform their taxation systems in the advent of any free trade deal. On that note, several CARICOM countries have been (i.e., Barbados, Belize and Trinidad & Tobago), or are currently contemplating (i.e., The Bahamas), replacing the lost revenues associated with lower tariff rates with those of a VAT. Gasoline, due to its relative price insensitive demand characteristic, would also be a natural candidate for the imposition of an excise tax as it has proven in North America.

Finally, the island-nation model of the Caribbean has proved to be too small an economic unit for the competitive production of many industrial goods. Rationalizing the number of production facilities throughout the CARICOM under a more comprehensive subregional trade agreement and further economic integration, possibly including the adoption of a regionally administered competition law and a broader and much deeper free trade arrangement between CARICOM nations, would improve the competitiveness profile and prospects of local firms. The elimination or centralization of industrial policy in the CARICOM could also produce social benefits by reducing wasteful lobbying for protection and privileges, thereby refocusing the region's limited entrepreneurial acumen on creating value rather than merely redistributing it. Given the historically and culturally fragmented nature of the Caribbean, which has led to insular and quite different rigid power structures and institutions, with the only seemingly common feature or shared experience being that they are located in the Caribbean Basin, this agenda will clearly pose a significant challenge to the CARICOM and the Association of Caribbean States.

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9 *The Americas Review 1998.*

APPENDIX 3
SUMMIT OF THE AMERICAS DECLARATION OF PRINCIPLES[1]

Partnership for Development and Prosperity: Democracy, Free Trade and Sustainable Development in the Americas

The elected Heads of State and Government of the Americas are committed to advance the prosperity, democratic values and institutions, and security of our hemisphere. For the first time in history, the Americas are a community of democratic societies. Although faced with differing development challenges, the Americas are united in pursuing prosperity through open markets, hemispheric integration, and sustainable development. We are determined to consolidate and advance closer bonds of cooperation and to transform our aspirations into concrete realities.

We reiterate our firm adherence to the principles of international law and the purposes and principles enshrined in the United Nations Charter and in the Charter of the Organization of American States (OAS), including the principles of the sovereign equality of states, non-intervention, self-determination, and the peaceful resolution of disputes. We recognize the heterogeneity and diversity of our resources and cultures, just as we are convinced that we can advance our shared interests and values by building strong partnerships.

To Preserve and Strengthen the Community of Democracies of the Americas

The Charter of the OAS establishes that representative democracy is indispensable for the stability, peace and development of the region. It is the sole political system which guarantees respect for human rights and the rule of law; it safeguards cultural diversity, pluralism, respect for the rights of minorities, and peace within and among nations. Democracy is based, among other fundamentals, on free and transparent elections and includes the right of all citizens to participate in government. Democracy and development reinforce one another.

We reaffirm our commitment to preserve and strengthen our democratic systems for the benefit of all people of the hemisphere. We will work through the appropriate bodies of the OAS to strengthen democratic institutions and promote and defend constitutional democratic rule, in accordance with the OAS Charter. We endorse OAS efforts to enhance peace and the democratic, social, and economic stability of the region.

We recognize that our people earnestly seek greater responsiveness and efficiency from our respective governments. Democracy is strengthened by the modernization of the state, including reforms that streamline operations, reduce and simplify government rules and procedures, and make democratic institutions more transparent and accountable. Deeming it essential that justice should

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1 This appendix is extracted from the Free Trade Area of the Americas Website at www.ftaa–alca.org.

be accessible in an efficient and expeditious way to all sectors of society, we affirm that an independent judiciary is a critical element of an effective legal system and lasting democracy. Our ultimate goal is to better meet the needs of the population, especially the needs of women and the most vulnerable groups, including indigenous people, the disabled, children, the aged, and minorities.

Effective democracy requires a comprehensive attack on corruption as a factor of social disintegration and distortion of the economic system that undermines the legitimacy of political institutions.

Recognizing the pernicious effects of organized crime and illegal narcotics on our economies, ethical values, public health, and the social fabric, we will join the battle against the consumption, production, trafficking and distribution of illegal drugs, as well as against money laundering and the illicit trafficking in arms and chemical precursors. We will also cooperate to create viable alternative development strategies in those countries in which illicit crops are grown. Cooperation should be extended to international and national programs aimed at curbing the production, use and trafficking of illicit drugs and the rehabilitation of addicts.

We condemn terrorism in all its forms, and we will, using all legal means, combat terrorist acts anywhere in the Americas with unity and vigor.

Recognizing the important contribution of individuals and associations in effective democratic government and in the enhancement of cooperation among the people of the hemisphere, we will facilitate fuller participation of our people in political, economic and social activity, in accordance with national legislation.

To Promote Prosperity Through Economic Integration and Free Trade

Our continued economic progress depends on sound economic policies, sustainable development, and dynamic private sectors. A key to prosperity is trade without barriers, without subsidies, without unfair practices, and with an increasing stream of productive investments. Eliminating impediments to market access for goods and services among our countries will foster our economic growth. A growing world economy will also enhance our domestic prosperity. Free trade and increased economic integration are key factors for raising standards of living, improving the working conditions of people in the Americas and better protecting the environment.

We, therefore, resolve to begin immediately to construct the "Free Trade Area of the Americas" (FTAA), in which barriers to trade and investment will be progressively eliminated. We further resolve to conclude the negotiation of the "Free Trade Area of the Americas" no later than 2005, and agree that concrete progress toward the attainment of this objective will be made by the end of this century. We recognize the progress that already has been realized through the unilateral undertakings of each of our nations and the subregional trade arrangements in our hemisphere. We will build on existing subregional and bilateral arrangements in order to broaden and deepen hemispheric economic integration and to bring the agreements together.

Aware that investment is the main engine for growth in the hemisphere, we will encourage such investment by cooperating to build more open, transparent and integrated markets. In this regard, we are committed to create strengthened mechanisms that promote and protect the flow of productive investment in the hemisphere, and to promote the development and progressive integration of capital markets.

To advance economic integration and free trade, we will work, with cooperation and financing from the private sector and international financial institutions, to create a hemispheric infrastructure. This process requires a cooperative effort in fields such as telecommunications, energy and transportation, which will permit the efficient movement of the goods, services, capital, information and technology that are the foundations of prosperity.

We recognize that despite the substantial progress in dealing with debt problems in the hemisphere, high foreign debt burdens still hinder the development of some of our countries.

We recognize that economic integration and the creation of a free trade area will be complex endeavors, particularly in view of the wide differences in the levels of development and size of economies existing in our hemisphere. We will remain cognizant of these differences as we work toward economic integration in the hemisphere. We look to our own resources, ingenuity, and individual capacities as well as to the international community to help us achieve our goals.

To Eradicate Poverty And Discrimination In Our Hemisphere

It is politically intolerable and morally unacceptable that some segments of our populations are marginalized and do not share fully in the benefits of growth. With an aim of attaining greater social justice for all our people, we pledge to work individually and collectively to improve access to quality education and primary health care and to eradicate extreme poverty and illiteracy. The fruits of democratic stability and economic growth must be accessible to all, without discrimination by race, gender, national origin or religious affiliation.

In observance of the International Decade of the World's Indigenous People, we will focus our energies on improving the exercise of democratic rights and the access to social services by indigenous people and their communities.

Aware that widely shared prosperity contributes to hemispheric stability, lasting peace and democracy, we acknowledge our common interest in creating employment opportunities that improve the incomes, wages and working conditions of all our people. We will invest in people so that individuals throughout the hemisphere have the opportunity to realize their full potential.

Strengthening the role of women in all aspects of political, social and economic life in our countries is essential to reduce poverty and social inequalities and to enhance democracy and sustainable development.

To Guarantee Sustainable Development and Conserve Our Natural Environment for Future Generations

Social progress and economic prosperity can be sustained only if our people live in a healthy environment and our ecosystems and natural resources are managed carefully and responsibly. To

advance and implement the commitments made at the 1992 United Nations Conference on Environment and Development, held in Rio de Janeiro, and the 1994 Global Conference on the Sustainable Development of Small Island Developing States, held in Barbados, we will create cooperative partnerships to strengthen our capacity to prevent and control pollution, to protect ecosystems and use our biological resources on a sustainable basis, and to encourage clean, efficient and sustainable energy production and use. To benefit future generations through environmental conservation, including the rational use of our ecosystems, natural resources and biological heritage, we will continue to pursue technological, financial and other forms of cooperation.

We will advance our social well-being and economic prosperity in ways that are fully cognizant of our impact on the environment. We agree to support the Central American Alliance for Sustainable Development, which seeks to strengthen those democracies by promoting regional economic and social prosperity and sound environmental management. In this context, we support the convening of other regional meetings on sustainable development.

Our Declaration constitutes a comprehensive and mutually reinforcing set of commitments for concrete results. In accord with the appended Plan of Action[2], and recognizing our different national capabilities and our different legal systems, we pledge to implement them without delay.

We call upon the OAS and the Inter-American Development Bank to assist countries in implementing our pledges, drawing significantly upon the Pan American Health Organization and the United Nations Economic Commission for Latin America and the Caribbean as well as sub-regional organizations for integration.

To give continuity to efforts fostering national political involvement, we will convene specific high-level meetings to address, among others, topics such as trade and commerce, capital markets, labor, energy, education, transportation, telecommunications, counter-narcotics and other anti-crime initiatives, sustainable development, health, and science and technology.

To assure public engagement and commitment, we invite the cooperation and participation of the private sector, labor, political parties, academic institutions and other non-governmental actors and organizations in both our national and regional efforts, thus strengthening the partnership between governments and society.

Our thirty-four nations share a fervent commitment to democratic practices, economic integration, and social justice. Our people are better able than ever to express their aspirations and to learn from one another. The conditions for hemispheric cooperation are propitious. Therefore, on behalf of all our people, in whose name we affix our signatures to this Declaration, we seize this historic opportunity to create a Partnership for Development and Prosperity in the Americas.

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2 The Plan of Action can be found at the Free Trade Area of the Americas Website at www.ftaa-alca.org

APPENDIX 4
THE ROAD TO THE FTAA[1]

The effort to unite the economies of the Western Hemisphere into a single free trade arrangement was initiated at the Summit of the Americas, which was held in December of 1994 in Miami. The Heads of State of the 34 democracies in the region agreed to construct a "*Free Trade Area of the Americas*" or FTAA and to complete negotiations for the agreement by 2005. The leaders also made a commitment to achieve substantial progress toward building the FTAA by 2000. Their decisions can be found in the Miami Summit's *Declaration of Principles* (Appendix 2) and *Plan of Action* (Appendix 3).

The effort to build the FTAA is a dynamic process that involves three key components:

- The Trade Ministers of the Western Hemisphere, who have developed the overall work plan for the FTAA;
- The 12 FTAA Working Group established by the Trade Ministers that are gathering and compiling information on the current status of trading relations in the hemisphere. These groups have now been transformed into nine Negotiating Groups (see below); and
- The Vice Ministers of Trade of the Western Hemisphere, who coordinate the efforts of the working groups and make policy recommendations to the Trade Ministers.

Since the Miami Summit, the hemisphere's Trade Ministers have met four times to formulate and execute a work plan for the FTAA. The first meeting was in June of 1995 in Denver, U.S.A., the second in March of 1996 in Cartagena, Colombia, the third in May of 1997 in Belo Horizonte, Brazil, and the fourth in March of 1998 in San Jose, Costa Rica.

During the Belo Horizonte Ministerial, it was agreed upon that the formal negotiations leading towards an FTAA would begin in March, 1998, at the Second Summit of the Americas in Santiago, Chile. The 12 Working Groups (seven were established in Denver; four in Cartagena and one in Belo Horizonte) met on numerous occasions, at locations throughout the Americas. In addition to gathering information, each working group was directed by the Trade Ministers to examine trade related measures in its respective areas, in order to determine possible approaches to negotiations.

The Trade Ministers also instructed their Vice-Ministers to accept recommendations from the Working Groups in order to "direct, evaluate and coordinate" their work. Since the San Jose Ministerial, the 12 original Working Groups were transformed into nine "Negotiation Groups."

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1 This appendix is extracted from the Free Trade Area of the Americas Website at www.ftaa-alca.org

The ambitious goal set by the leaders of the Western Hemisphere at the 1994 Summit of the Americas in Miami to create a free trade area has been given a significant push forward by the completion of the San Jose Declaration on March 19, 1998. This Declaration, agreed by the Trade Ministers of the 34 participating democracies in the FTAA process, served as the basis for the launch of the hemispheric trade negotiations by heads of state and government in Santiago, Chile on April 18 and 19, 1998. The San Jose Declaration can be compared to the 1986 Punta Del Este Declaration which launched the Uruguay Round of multilateral trade negotiations. It represents a commitment by 34 countries to the most ambitious undertaking for trade liberalization since that time. It also represents the largest regional integration effort ever undertaken involving both developed and developing countries in a common objective to realize free trade and investment in goods and services, on a basis of strengthened trading rules and disciplines.

The breadth of the negotiations which will be set in place by the San Jose Declaration is unprecedented even by the standards of the Uruguay Round. These negotiations will encompass all of those areas previously negotiated and which fall within the World Trade Organization's (WTO) ambit, with the goal of going beyond previously agreed multilateral liberalization within the hemisphere, wherever possible. Importantly, however, the FTAA negotiations will include areas not presently under the WTO such as a common investment regime, government procurement, and competition policy, which are not yet subject to commonly agreed disciplines among a large number of trading nations.

Equally, the FTAA negotiations will examine the interrelationship which exists between certain key negotiating areas, such as agriculture and market access; services and investment; competition policy and subsidies; antidumping and countervailing duties, among others, so as to ensure that the outcome of negotiations are as efficient and liberalizing as possible. The differences in level of development and size of participating economies will be taken account of in the negotiations in order to ensure that the smaller countries within the hemisphere will be able to equally benefit from the ensuing trade liberalization.

During the negotiations elements of civil society will have the possibility to make their views known on issues to be negotiated, as well as on the important relationship between trade and the environment and on labour issues as they may affect trade. A committee of government representatives will provide the link between the input from interested sectors of society and the negotiators on these issues.

A Summary of the Key Elements in the San Jose Declaration Time Frame

The FTAA negotiations were initiated during the Second Summit of the Americas, on April 18 and 19, in Santiago de Chile. They will be concluded no later than 2005. Concrete progress in the form of agreement on specific business facilitation measures is to be reached by the year 2000. The Trade Negotiations Committee is to meet for the first time no later than June 30, 1998, and the nine negotiating groups are to begin their work no later than September 30, 1998.

Structure of the Negotiations

The FTAA negotiations will be carried forward under a structure agreed through the year 2004. The structure is both flexible and ensures wide geographical representation by the participating countries through a rotation of both the Chairmanship of the process, the site of the negotiations themselves, and the responsibility for the various negotiating groups. Negotiations will be structured in the following manner:

Chairmanship of the Negotiations: will rotate every 18 months, or at the conclusion of each Ministerial Meeting. Those countries which have been designated to exercise the function of Chair of the FTAA process for successive 18-month periods are: Canada; Argentina; Ecuador; and Brazil and the U.S.A. (jointly).

Trade Negotiations Committee (TNC): will be responsible for the oversight of the negotiations. This Committee will be composed of Vice-Ministers for Trade. The Committee will meet no less than every 18 months. The Chairmanship of the TNC will be held by the Chair of the FTAA process.

The ***Negotiating Groups*** established are (1) market access (chaired by Colombia); (2) investment (Costa Rica); (3) services (Nicaragua); (4) government procurement (U.S.A.); (5) dispute settlement (Chile); (6) agriculture (Argentina); (7) intellectual property rights (Venezuela); (8) subsidies, antidumping and countervailing duties (Brazil); and (9) competition policy (Peru). The Chairman and Vice-Chairman of each group of the nine groups have been selected for an initial 18-month period, and subsequent chairs will be selected after this time, with the aim of ensuring geographic balance during each period of responsibility.

A ***Consultative Group*** on Smaller Economies was created, open to the participation of all the FTAA countries. This group, chaired by Jamaica, will report to the TNC and have a rotating chairmanship.

Venue of the Negotiations: established on a rotating basis. Three countries will serve as hosts to the negotiations, namely: The United States (Miami) for three years; Panama (Panama City) for two years; and Mexico (Mexico City) for two and a half years, or until the conclusion of negotiations.

Administrative and Substantive Support: The negotiations will be supported administratively through the creation of an Administrative Secretariat, located in the same site as the meetings of the negotiating groups. The Secretariat will be funded by a combination of local resources and the Tripartite Committee institutions.

Technical and analytical support for the negotiations will be provided by the three institutions of the Tripartite Committee, namely the Organization of American States (OAS), the Inter-American Development Bank (IDB), and the United Nations Economic Commission for Latin America and the Caribbean (ECLAC). These institutions will also provide technical assistance related to FTAA issues, particularly for the smaller economies of the hemisphere.

Input by Civil Society into the Negotiations: Governments in the Western Hemisphere have committed to transparency in the negotiating process. For this purpose they have agreed to create a Committee on Civil Society, in order to facilitate the input of the business community, labour, environmental, and academic groups, who wish to present their views on the issues under negotiation and on trade matters in a constructive manner. The FTAA is the first major trade negotiation where such a group has been established at the outset of the negotiations, and this is therefore a unique feature of the FTAA process. Providing technical assistance to the process has been the Tripartite Committee, which consists of the IDB, the OAS and the ECLAC. Experts from these institutions have been developing compendia and data bases on a variety of trade policy issues.

APPENDIX 5
ACRONYMS AND GLOSSARY

Accession — accession is possible for any party signing the final agreement and subsequently any state or regional integration organization willing to undertake the obligations.

Agricultural Subsidies — The signatories agreed to eliminate or reduce certain subsidies on the basis of a colour code whose design, resembling traffic lights, was a Canadian suggestion. Red means all subsidies in that category must be eliminated, as with export subsidies. Yellow means measures that distort trade and must be restricted, while green means programs that are restriction-exempt because of their neutral effect on trade, as with agricultural research programs. At the conclusion of the Uruguay Round, negotiations on agriculture had bogged down, and the European Union demanded and got a special category, coded blue, that divides the yellow box into two classes: measures that are the subject of reduction commitments and measures that do not need to be reduced because they fall within production-limitation programs.

Andean Community — includes Bolivia, Colombia, Ecuador, Peru and Venezuela; sometimes referred to as the *Pacto Andino* that came into being at the Cartagena Declaration of 1969, then signed under the *Acta de la Paz* in 1990, whereby it would be a free trade zone by 1992 and a customs union by 1995.

APEC — Asia-Pacific Economic Cooperation includes Australia, Brunei Darassalam, Canada, Chile, People's Republic of China, Hong Kong, Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Republic of Phillipines, Russia, Singapore, Chinese Taipei, Thailand, the United States of America and Vietnam.

BITs — Bilateral Investment Treaties; in Canada, they are referred to as a Foreign Investment Protection Agreement or FIPA.

CACM — the Central American Common Market includes Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua; the Managua Declaration was signed in 1960 with the intention of becoming a common market; it, in effect, became a free trade zone in 1993.

CARIBCAN — Canadian trade program whereby selective products originating in the Caribbean Basin are provided preferential tariff treatment.

CARICOM — the Caribbean Common Market includes Antigua & Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Monserrat, St. Kitts & Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad & Tobago; British Virgin Islands is an associate member. First formed under the Caribbean Free Trade Association (CARIFTA) in 1965 to liberalize trade within the region, renamed CARICOM under the Treaty of Chaguaramas in 1973 and established a common external tariff (CET) in 1991.

Carve-in/Carve-out — term used by negotiators to refer to areas subject to the agreement and those excluded. Carve-out is equivalent to a general exception except for any expressly provided measure. Taxation is carved-out except for expropriation by taxation.

CIDA — Canadian International Development Agency.

Common Market — a customs union is supplemented by removal of all barriers to labour and capital movements between member countries.

CUSFTA — Canada-United States Free Trade Agreement signed in 1988.

Customs Union — a free trade agreement (FTA) is supplemented by the establishment of a common external tariff (CET) on goods and services from non-member countries.

Derogation — temporary measure to deviate from an obligation as in the case of safeguards.

Dispute Settlement — procedure used to settle disputes. State-to-state disputes propose a process that evolves from consultations to mediation or conciliation, arbitration, formation of a tribunal, a decision and procedures for non-compliance with a tribunal decision. Non-compliance can be met with measures of proportionate effect. Investor-state disputes propose a process that involves use of the competent courts or administrative tribunals of a Contracting Party.

ECLAC — United Nations Economic Commission for Latin America and the Caribbean; CEPAL being the spanish acronym.

EFTA — the European Free Trade Association includes Iceland, Liechtenstein, Norway and Switzerland.

EU — the European Union includes Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and the United Kingdom.

Expropriation — acquisition or nationalization of an investment. To be undertaken with due process of law and accompanied by prompt, adequate and effective compensation.

FTA — Free Trade Agreement, whereby member countries eliminate substantially all tariff and non-tariff barriers among themselves, but maintain their individual external tariff and non-tariff barriers. Rules of origin ensure that goods from outside countries are not able to circumvent a member's external high tariff by being transported through the territory of a low tariff member.

FTAA — Free Trade Area of the Americas.

G7 Countries — United States, Japan, Germany, United Kingdom, France, Italy and Canada.

GATS — General Agreement on Trade in Services.

GATT — General Agreement on Tariffs and Trade.

General Exception — these provide signatories with an exemption from all aspects of the agreement.

GPA — Government Procurement Agreement.

Group of Three — FTA between Mexico, Colombia and Venezuela.

IACOMHR — Inter-American Commission on Human Rights.

IACHR — Inter-American Court of Human Rights.

IDB — United Nations Inter-American Development Bank.

ILO — International Labour Organization.

IMF — International Monetary Fund.

LAIA — Latin American Integration Association; ALADI being the Spanish acronym.

MAI — Multilateral Agreement on Investment.

MERCOSUR — *Mercado Común der Sur* or Common Market of the Southern Cone, which is a FTA and customs union that includes Argentina, Brazil, Paraguay and Uruguay which was signed in 1991 at the Treaty of Asuncion; Bolivia and Chile are associate free trade members.

MFN — most-favoured nation, whereby a foreign investor will be treated no less favourably than any other foreign investor.

MMT — Methylcyclopentadienyl Manganese Tricarbonyl.

NAALC — North American Agreement on Labour Co-operation.

NAFTA — North American Free Trade Agreement, including Canada, Mexico and the United States and signed in 1993.

NGOs — Non-Governmental Organizations.

NT — National Treatment, whereby treatment of trade in goods and services and foreign investment will be the same as the treatment of domestic trade and investment.

Non-discrimination — established in terms of national treatment and most-favoured nation treatment.

OAS — Organization of American States whose charter was signed at the Bogotá conference in 1948 now includes 34 members.

OCS — Organization of Caribbean States is a forum for discussing economic and security issues signed in 1994.

OECD — Organization for Economic Co-operation and Development.

PAHO — United Nations Pan American Health Organization.

Performance Requirements — a list of measures that cannot be imposed on an investor in conjunction with the investment. The draft list approximates the TRIMs of the WTO and similar provisions in the investment chapter of the NAFTA. A subsidy, incentive or "advantage" can be given to an investor on condition that the investor undertakes some performance requirement and in this case the ban on performance requirements mentioned above would not apply.

Preferential Agreements — whereby a country provides access to another country's market without requiring reciprocal access.

Reservations — these are taken by countries for measures that do not conform with MFN and national treatment obligations under the agreement. This provision grandfathers existing policies and may allow them to be expanded (see Standstill and Rollback).

Safeguards — temporary measures inconsistent with the obligations can be taken in the case of serious balance of payments or external financial difficulties, or difficulties associated with monetary or exchange rate policies, or for measures approved by the IMF.

SAGIT — Sectoral Advisory Group on International Trade.

Sectoral Agreements — whereby a reduced duty or duty-free access is provided among member countries on a limited range of products.

Standstill and Rollback — Standstill occurs when country reservations are made and a measure cannot become more restrictive over time; it may agree to relax or remove the restriction over time in which case Rollback occurs. A party may be "bound" by its reservation which means it will not make it more restrictive but can change it by making it less restrictive and is the same as Standstill in this regard. An "unbound" reservation allows a country to maintain a non-conforming measure and to alter it in the future in any way.

Transparency — the requirement that contracting parties make publicly available their laws, regulations, procedures, administrative rulings and judicial decisions.

TRIMs — Trade Related Investment Matters.

TRIPs — Trade Related Intellectual Property Rights.

UNESCO — United Nations Educational, Scientific and Cultural Organization.

UPD — OAS Unit for the Promotion of Democracy.

WTO — World Trade Organization.

APPENDIX 6
List of Sub-Committee Witnesses

Associations and Individuals	Meeting	Date
Department of Foreign Affairs and International Trade	23	Thursday, February 11, 1999
Claude Carrière, Director, Tariffs and Market Access Division		
Kathryn McCallion, Assistant Deputy Minister, International Business, Passport and Consular Affairs		
Department of Foreign Affairs and International Trade	24	Wednesday, March 3, 1999
Claude Carrière, Director, Tariffs and Market Access Division		
Paul Durand, Director General, Latin America and Caribbean Bureau		
George Haynal, Assistant Deputy Minister - Americas		
Hon. Sergio Marchi, Minister, International Trade		
Kathryn McCallion, Assistant Deputy Minister, International Business, Passport and Consular Affairs		
Canadian International Development Agency	25	Tuesday, March 9, 1999
Bob Anderson, Vice-President, Americas		
Department of Foreign Affairs and International Trade		
Bob Clark, Senior Coordinator of Hemisphere Summits		
Paul Durand, Director General, Latin America and Caribbean Bureau		
George Haynal, Assistant Deputy Minister - Americas		
Canadian Labour Congress	26	Tuesday, April 13, 1999
Dick Martin, Secretary Treasurer and President of the Inter-American Regional Workers Association		
Fraser Institute		
Owen Lippert, Director, Law and Markets Project		
Canadian Centre for Policy Alternatives	27	Tuesday, April 20, 1999
Bruce Campbell, Executive Director		
Canadian Council for International Co-operation		
Eleanor Douglas, Co-Chair, Americas Policy Group		
Gauri Screenivasan, Coordinator, Policy Unit		
As Individuals		
Jean Daudelin, North-South Institute		
Maureen Molot, Director, Norman Patterson School of International Relations		
Alliance of Manufacturers & Exporters Canada	28	Wednesday, April 21, 1999
Pamela Fehr, Policy Analyst		
Jayson Myers, Senior Vice-President and Chief Economist		

Associations and Individuals	Meeting	Date
Canadian Foundation for the Americas	28	Wednesday, April 21, 1999
Denis Leclerc, Director		
Martin Roy		
Council of Canadians (The)		
Peter Bleyer, Executive Director		
International Centre for Human Rights and Democratic Development		
Warren Allmand, President		
International Development Research Centre		
Rohinton Medhora, Senior Program Officer		
Caroline Pestieau, Vice-President, Programs Branch		
As Individual		
Joël Monfils, « Institut québécois des hautes études internationales », Université		
Canadian Federation of Agriculture	29	Wednesday, May 5, 1999
Sally Rutherford, Executive Director		
Centre for Trade Policy and Law of Carleton University		
William Miner, Senior Associate		
Dairy Farmers of Canada		
Yves Leduc, Assistant Director, International Trade Department		
Sierra Club of Canada		
Elizabeth May, Executive Director		
Canadian Cancer Society	30	Tuesday, May 11, 1999
Rob Cunningham, Senior Policy Analyst		
Canadian Environmental Law Association		
Michelle Swenarchuk, Director, International Programmes		
Canadian Pulp and Paper Association		
Joel Neuheimer, Manager, Market Access, Trade Affairs		
Mining Association of Canada (The)		
Gordon Peeling, President and Chief Executive Officer		
Expetro International OGPC Ltd.	31	Wednesday, May 26, 1999
Annette Hester, Associate Consultant, Regional Coordinator		
GE Canada		
Robert Weese, Vice-President		
John Wilson, Consultant		
Gildan Activewear Inc.		
H. Chamandy, Chairman and Chief Executive Officer		

Associations and Individuals	Meeting	Date
Industry Canada — Competition Bureau	31	Wednesday, May 26, 1999
Patricia Smith, Deputy Director, Investigation and Research, Economics and International Affairs Branch		
Canadian Conference of the Arts	32	Wednesday, June 2, 1999
Marlene Chan, National Director		
Megan Williams, National Director		
Shaw Communications Inc.		
Ken Stein, Senior Vice-President, Corporate and Regulatory Affairs		
Writers' Union of Canada		
Barry Grills, Co-Chair		
University of Michigan Law School	33	Wednesday, June 9, 1999
Howse, Robert		
As individual		
Howard Mann, Consultant and Trade Lawyer		

APPENDIX 7
List of Submissions

Alliance of Manufacturers & Exporters Canada

Canadian Cancer Society

Canadian Conference of the Arts

Canadian Council for the Americas

Canadian Environmental Law Association

Canadian Federation of Agriculture

Canadian Foundation for the Americas

Canadian Labour Congress

Canadian Pulp and Paper Association

Canadian Union of Public Employees

Canadians Concerned About Violence in Entertainment

Centre for Equality Rights in Accomodation

Centre for Trade Policy and Law of Carleton University

Common Frontiers

Council of Canadians (The)

Dairy Farmers of Canada

Department of Foreign Affairs and International Trade

Expetro International OGPC Ltd.

Fraser Institute

GE Canada

Gildan Activewear Inc.

Horizons of Friendship

Industry Canada — Competition Bureau

Inter-Church Committee for Human Rights in Latin America

International Centre for Human Rights and Democratic Development

International Development Research Centre

Maquila Solidarity Network

Mining Association of Canada (The)

National Council of Women of Canada

Science for Peace

Shaw Communications Inc.

Sierra Club of Canada

The Appraisal Institute of Canada

World Federalists of Canada

Writers' Union of Canada

APPENDIX 8
List of Witnesses

Standing Committee on Foreign Affairs and International Trade

Meetings 85-136, First Session of the 36th Parliament, on Canada's Trade Objectives and the forthcoming agenda of the World Trade Organization (WTO).

Witnesses who appeared before the Standing Committee were invited to address both the WTO and the proposed FTAA. Quotations from the Evidence of the Standing Committee can be identified by meeting numbers 85-136.

Associations and Individuals	Meeting	Date
Department of Foreign Affairs and International Trade Hon. Sergio Marchi, Minister International Trade Robert G. Wright, Deputy Minister International Trade Jonathan Fried, Assistant Deputy Minister Trade and Economic Policy	85	Wednesday, December 2, 1998
Agriculture and Agri-Food Canada Susan Vinet, Executive Director, International Trade Policy Directorate	86	Thursday, December 3, 1998
Department of Canadian Heritage Michael Wernick, Assistant Deputy Minister Cultural Development		
Department of Finance Terry Collins-Williams, Director, International Trade Policy Division		
Department of Foreign Affairs and International Trade Jonathan Fried, Assistant Deputy Minister Trade and Economic Policy		
Industry Canada Robert Ready, Director International Investment Services		
Department of Finance Terry Collins-Williams, Director International Trade Policy Division	88	Tuesday, February 9, 1999

Associations and Individuals	Meeting	Date
Department of Foreign Affairs and International Trade	88	Tuesday, February 9, 199
Hon. Sergio Marchi, Minister International Trade		
Jonathan Fried, Assistant Deputy Minister Trade and Economic Policy		
John Klassen, Director General, General Trade Policy Bureau		
Agriculture and Agri-Food Canada	90	Thursday, February 11, 1999
Paul Martin, Acting Director, Multilateral Trade Policy Division, International Trade Policy Directorate, Market and Industry Services Branch		
Department of Finance		
Gilles Gauthier, Acting Chief, Trade Services and Investment		
Department of Foreign Affairs and International Trade		
John Gero, Director General, Trade Policy Bureau II, Services, Investment and Intellectual Property		
Claude Carrière, Director, Tariffs and Market Access Division		
Industry Canada		
Robert Ready, Director, International Investment Services		
Council of Canadians	93	Tuesday, March 2, 1999
Maude Barlow, Chairperson		
Polaris Institute		
Tony Clarke, Director		
Shannon and Associates		
Gerald Shannon, Former Deputy Minister of International Trade and Associate Deputy Minister of Foreign Affairs, Canada's Chief Negotiator for the Uruguay Round of Trade Negotiations		
As Individuals		
Lawrence Herman, Trade Lawyer Cassels, Brock, Blackwell		
Robert Wolfe, Assistant Professor, School of Policy Studies, Queen's University		

Associations and Individuals	Meeting	Date
Alliance of Manufacturers & Exporters Canada	95	Thursday, March 4, 1999
Jayson Myers, Senior Vice-President and Chief Economist		
Pamela Fehr, Policy Analyst		
Consumers' Association of Canada		
Robert Kerton, Chair, Trade Committee		
Grey, Clark, Shih and Associates		
Peter Clark, President		
International Institute for Sustainable Development		
David Runnalls, Interim President		
C.D. Howe Institute	96	Tuesday, March 9, 1999
Daniel Schwanen, Senior Policy Analyst		
Canadian Conference of the Arts		
Megan Williams, National Director		
Alexander Crawley, Member of the Board of Governors		
Centre for Trade Policy and Law of Carleton University		
Dennis Browne, Director		
Sectoral Advisory Group on International Trade (SAGIT) for Cultural Industries		
Ken Stein, Chair and Vice-President, Corporate and Regulatory Affairs Shaw Communications		
As Individuals		
Keith Acheson, Professor, Carleton University		
Ivan Bernier, Professor, Law Faculty University Laval		
Ann McCaskill, McCaskill Consulting Inc.		
Canadian Alliance of Agri-Food Exporters (AGRICORE)	98	Thursday, March 11, 1999
Patty Townsend, Manager, Communications and Public Affairs		
Canadian Federation of Agriculture		
Robert Friesen, President		
Centre for Trade Policy and Law of Carleton University		
William Miner, Senior Associate		

Associations and Individuals	Meeting	Date
Dairy Farmers of Canada	98	Thursday, March 11, 1999
John Core, First Vice-President		
Yves Leduc, Assistant Director, International Trade Department		
"Union des producteurs agricoles du Québec"		
Yvon Proulx, Chief Economist		
Canadian Steel Producers' Association	99	Tuesday, March 16, 1999
Jean Van Loon, President		
Donald Belch, Director, Government Relations		
IBM (Canada)		
Shirley-Ann George, Government Programs Executive		
Information Technology Association of Canada		
William Munson, Director, Policy		
Public Interest Advocacy Centre		
Michael Janigan, Executive Director		
Andrew Reddick, Director, Research		
As Individuals		
Jim Carroll		
C.J. Michael Flavell, Flavell, Kubrick & Lalonde		
Canadian Steel Producers' Association	101	Tuesday, March 16, 1999
Jean Van Loon, President		
Donald Belch, Director, Government Relations		
Thomas & Davies		
Serge Fréchette, Lawyer		
As Individuals		
Donald MacRae, Professor, Faculty of Law University of Ottawa		
Howard Mann, Consultant		
Canadian Centre for Policy Alternatives	102	Thursday, March 18, 1999
Bruce Campbell, Executive Director		
Canadian Council for International Co-operation		
Betty Plewes, President & CEO		
Human Rights Research and Education Centre		
Errol Mendes, Director		
North-South Institute		
Ann Weston, Vice-President		

Associations and Individuals	Meeting	Date
Alliance of Manufacturers & Exporters Canada	103	Monday, March 22, 1999 St. John's, Newfoundland
Lorne Janes, National Chairman & Past Chairman		
Burf Ploughman, Vice-President		
Fisheries Association of Newfoundland and Labrador		
Alastair O'Reilly, President		
Kevin Coombs, Chairman, Board of Directors		
National Anti-Poverty Organization		
Bev Brown, International Secretary		
Newfoundland Chicken Producers Supply—Management Group		
Eugene Legge, Vice-Chair		
"ACEF Rive-Sud"	104	Monday, March 22, 1999 Quebec City, Québec
Enrico Théberge, Spokesperson		
"Association coopérative d'économie familiale de Québec"		
Daniel Germain, Sociologist		
As Individuals		
Ivan Bernier, Professor, Law Faculty University Laval		
Paul Crête, M.P., Kamouraska—Rivière-du-Loup—Témiscouata—Les Basques		
Stéphane Rémillard, Consultant, International Trade		
Nova Scotia Supply—Management Agriculture Group	105	Tuesday, March 23, 1999 Halifax, Nova Scotia
Jack Johnson, Executive Director, Nova Scotia Milk Producers		
Stuart Allaby, Natural Products Marketing Council (NPMC)		
Ralph De Long, Chairman, Nova Scotia Egg Marketing Board		
Peter Hill, Vice-President, Nova Scotia Federation of Agriculture		
"Chambre de commerce de la MRC des Maskoutains"	106	Tuesday, March 23, 1999 Saint-Hyacinthe, Québec
Denis Clouthier, Director General		
Mario De Tilly, Industrial Commissioner Saint-Hyacinthe Region		

Associations and Individuals	Meeting	Date
"Coopérative fédérée du Québec"	106	Tuesday, March 23, 1999
Claude Lafleur, Secretary General		Saint-Hyacinthe, Québec
Jean Brodeur, Director, Public Affairs		
As Individuals		
René Côté, Professor, "Centre de recherche en droit, sciences et sociétés, Université du Québec à Montréal"		
Sylvestre Manga, Researcher, "Commerce international des produits agricoles et agricoles génétiquement modifiés, UQAM"		
Yvan Loubier, M.P., Saint-Hyacinthe—Bagot		
"Syndicat des employé(e)s de magasins et de bureaux de la SAQ"		
Jean Jr. LaPerrière, President		
Jacynthe Fortin, Sociologist, Author of the study "Enjeux sociaux de la privatisation de la SAQ : de la facture économique à la fracture sociale"		
François Patenaude, Researcher, "Chaire d'études socio-économiques de l'Université du Québec à Montréal"		
Ronald Guévremont, Communications Officer of the SEMB SAQ		
"Syndicat des producteurs de lait de Lanaudière"		
Jean-Guy Bouvier, Second Vice-President		
André Lépine, Administrator		
Guy Lorrain, Administrator		
Canadian Federation of Students — Nova Scotia Component	107	Wednesday, March 24, 1999
Penny McCall Howard, National Executive Representative		Halifax, Nova Scotia
Ian Sharpe, Executive Member		
OXFAM Canada		
Brian O'Neil, Program Coordinator		
As Individuals		
Mike Bradfield, Professor, Economic Department, Dalhousie University		
Hugh Kindred, Professor, Law School (Trade) Dalhousie University		
Anna Lanoszka, Ph. D. Student, Accession (Agriculture)		

Associations and Individuals	Meeting	Date
James McNiven, Professor, Public and Business Administration, Dalhousie University	107	Wednesday, March 24, 1999 Halifax, Nova Scotia
Brian Russell, Professor, Business School Dalhousie University		
Gilbert Winham, Professor, International Trade University of Dalhousie		
"Association québécoise de l'industrie du disque, du spectacle et de la vidéo· (ADISQ)"	108	Wednesday, March 24, 1999 Montreal, Québec
Robert Pilon, Vice-President, Public Affairs		
"Barreau du Québec"		
Annie Chapados, Legal Consultant, Research and Legislation		
Chamber of Commerce of Quebec		
Michel Audet, President		
Confederation of National Trade Unions (CSN)		
Claudette Carbonneau, First Vice-President		
Peter Bakvis, Assistant to the Executive Committee		
"Conseil du patronat du Québec"		
Jacques Garon, Director of Research and Economist		
"Fédération des producteurs de lait du Québec"		
Alain Bourbeau, Director, Economic Research		
International Centre for Human Rights and Democratic Development		
Warren Allmand, President		
Diana Bronson, Coordinator, Globalization and Human Rights Programme		
Craig Forcese, Legal Consultant		
Carole Samdup, Assistant Coordinator Globalization and Human Rights Programme		
"Ordre des comptables agréés"		
Ginette Lussier-Price, Director, Inspection Branch and Professional Affairs		
"Ordre des ingénieurs du Québec"		
Luc Laliberté, Syndic		
Quebec Federation of Labour (FTQ)		
Henri Massé, President		
Lise Côté, Economist, Research Branch		

Associations and Individuals	Meeting	Date
Society of Composers, Authors and Music Publishers of Canada	108	Wednesday, March 24, 1999 Montreal, Québec
Gilles Valiquette, President		
Paul Spurgeon, General Counsel		
As Individual		
Joseph A. Di Iorio, Lawyer		
McCains Foods	109	Thursday, March 25, 1999 Fredericton, New Brunswick
Arnold Park, CEO		
Michael Campbell, Vice-President and General Counsel		
Richard Bartlett, Executive Vice-President		
Yves Leclerc, Senior Agronomist		
Allan Walker, Purchasing Manager		
Heather Mullen, Associate Counsel		
National Farmers Union — New Brunswick District Board		
Conrad Toner, National Board Member		
Darrill McLaughlin, Member		
New Brunswick Milk Board		
Robert Speer, Second Vice-President		
John Schenkels, Director		
Albert Neill, Director		
Stephen De Merchant, Director		
Canadian Environment Industry Association	110	Thursday, March 25, 1999 Montreal, Québec
Colin Isaacs, Chair, National Policy Committee and President, Contemporary Information Analysis		
Robert Fraser, Chair, Environmental Exporters Council		
Rebecca Last, Director, Programs and Policy		
Pharmaceutical Manufacturers Association of Canada		
Terry McCool, Vice-President, Corporate Affairs, Eli Lilly Canada Inc.		
Bernard Houde, Vice-President, Corporate Affairs, Merck Frosst Canada		

Associations and Individuals	Meeting	Date
"Réseau québécois sur l'intégration continentale (RQIC)"	110	Thursday, March 25, 1999 Montreal, Québec
Peter Bakvis, Director, International Relations (CSN)		
Patrice Laquerre, Coordinator, "Centre québécois du droit de l'environnement"		
Yves Lanctôt, Advisor, "Centrale de l'enseignement du Québec"		
Catherine Saint-Germain, Vice-President Quebec Branch, "Association canadienne des avocats du mouvement syndical"		
As Individuals		
Bonnie Campbell, Professor, Political Science Department, "Université du Québec à Montréal"		
Gilbert Gagné, Professor and Lecturer, Political Science Department, Concordia University and University of Ottawa		
Ysolde Gendreau, Professor, Law Faculty University of Montreal		
Thomas Lavier, Student, Political Science McGill University		
Vilaysoun Loungnarath, Professor, Law Faculty Montreal University		
Alliance of Manufacturers & Exporters Canada	112	Tuesday, April 13, 1999
Jayson Myers, Senior Vice-President and Chief Economist		
Pamela Fehr, Policy Analyst		
Fraser Institute		
Owen Lippert, Director, Law and Markets Project		
Patent and Trademark Institute of Canada		
Glen Bloom, President		
Stuart Wilkinson, Honourary Treasurer		
Specialty and Premium Television Association		
Jane Logan, President & CEO		
Teleglobe Inc.		
Meriel Bradford, Vice-President		

Associations and Individuals	Meeting	Date
Canadian Council of Professional Engineers	113	Thursday, April 15, 1999
Wendy Ryan-Bacon, Vice-President		
Industry Canada — Competition Bureau		
Konrad von Finckenstein, Commissioner		
Patricia Smith, Deputy Director, Investigation and Research, Economics and International Affairs Branch		
Dominique Burlone, Acting Assistant Deputy Director Investigation and Research Economics and International Affairs Branch		
Physicians for a Smoke-Free Canada		
Cynthia Callard, Executive Director		
Canadian Egg Marketing Agency	117	Thursday, April 22, 1999
Félix Destrijker, Chairman		
Neil Currie, Chief Executive Officer		
Canadian Fertilizer Institute		
Roger Larson, President		
Paul Lansbergen, Communications and Member Services Officer		
Canadian Pulp and Paper Association		
Joel Neuheimer, Manager, Market Access, Trade Affairs		
Fisheries Council of Canada		
Ronald Bulmer, President		
Appraisal Institute of Canada	119	Monday, April 26, 1999 Winnipeg, Manitoba
Peter Clark, President		
Terry Gifford, Executive Vice-President		
Canadian Alliance of Agri-Food Exporters (AGRICORE)		
Brian Saunderson, Vice-President		
Rick White, Manager, Policy, Research and Information		
Canadian Federation of Students — Manitoba Component		
Margaret Bryans, Co-Chair		
Canadian Oilseed Processors Association		
Robert Broeska, President		
Canadian Union of Public Employees		
Paul Moist, President, CUPE Manitoba		
Allen Bleich, Manitoba Coordinator		

Associations and Individuals	Meeting	Date
Canadian Wheat Board	119	Monday, April 26, 1999
Larry Hill, Director		Winnipeg, Manitoba
Tami Reynolds, Vice-President, Corporate Policy		
Congress of Union Retirees of Canada		
Al Cerilli, Executive Board Member-at-large		
John Pullen, Vice-President, Manitoba Federation of Union Retirees		
Government of Manitoba		
Hon. Harry Enns, Minister, Agriculture		
Craig Lee, Assistant Deputy Minister Agriculture		
International Institute for Sustainable Development		
Aaron Cosbey, Interim Program Director		
Arthur Hansan, Senior Scientist and Distinguished Fellow		
Keystone Agricultural Producers		
Donald Dewar, President		
Hank Riese, Director		
Manitoba Chamber of Commerce		
Dave Penner, Vice-President		
Brian Kelly, Director		
Manitoba Milk Producers		
William Swan, Chairman		
W. J. S. Wade, General Manager		
Manitoba Society of Seniors		
Ramon Kopas, Executive Director		
Charles Cruden, Member, Board of Directors		
Mennonite Central Committee Canada		
Marion Meyer, Policy Analyst, Food, Disaster and Material Resources		
Stuart Clark, Program Director, Canadian Foodgrains Bank		
National Farmers Union		
Fred Tait, Vice-President, NFU Region 5 (Manitoba) Coordinator		
North American Commission for Environmental Cooperation		
Janine Ferretti, Director		

Associations and Individuals	Meeting	Date
People Empowering Themselves Against the System	119	Monday, April 26, 1999 Winnipeg, Manitoba
Susan Bruce, Spokesperson		
Randy Kotyk, Spokesperson		
Provincial Council of Women		
Valinda Morris, Member		
Elizabeth Fleming, Vice-President		
As Individuals		
Cynthia Cooke		
Derwyn Davies		
Barry M. Hammond		
George Harris		
Gilbert Laberge		
Bob Preston		
Muriel Smith, President, United Nations Association in Canada		
Asia Pacific Foundation of Canada	120	Monday, April 26, 1999 Vancouver, British Columbia
William Saywell, President		
Yuen Pau Woo, Director, Research and Analysis		
Canadian Action Party		
Connie Fogal, President		
Canadian Auto Workers Union		
Jef Keighley, National Representative		
Canadian Centre for Policy Alternatives		
Marc Lee, Research Economist		
Canadian Federation of Students — National Office		
Mark Veerkamp, Chairperson		
Centre for Trade Policy and Law of Carleton University		
Michael Hart, Senior Associate		
Confederation of Canadian Unions — BC Council		
Duncan McLean, Vice-President, Independent Canadian Transit Union		
Gary Worth, Canadian Pulp, Paper and Woodworkers of Canada (PPWC)		
Council of Canadians — Coquitlam Chapter		
Eunice Parker, Member		

Associations and Individuals	Meeting	Date
Government of British Columbia	120	Monday, April 26, 1999
Joan Smallwood, Chair, Special Committee on the MAI and MLA for Surrey—Whalley		Vancouver, British Columbia
Scott Sinclair, Consultant		
Hospital Employees' Union		
David Ridley, First Vice-President		
Langara Students' Union Association		
Winnie Kuitenbrouwer, Spokesperson		
Rob Nagai, Spokesperson		
Union of British Columbia Indian Chiefs		
Stewart Phillip, President		
Ardith Walkem, Legal Counsel		
University of British Columbia's Students Against the MAI		
Uri Strauss, Spokesperson		
As Individuals		
John Argue, Working Group on Poverty and Amnesty International		
Noel Armstrong, Seniors Group, Unitarian Church of Vancouver		
Herb Barbolet, Executive Director, Farm Folk/City Folk Society		
Sandra Bauer, Municipal Councillor, Municipal Council — District of Squamish, B.C.		
Marc Bombois		
Elsie Dean		
Hugh Dempster		
Murray Dobbin, Council of Canadians Member		
Soonoo Engineer, President of WCRP, Women's International League for Peace and Freedom		
Lyle Fenton, Municipal Councillor, Municipal Council — District of Squamish, B.C.		
Dorothy Goresky, Spokesperson, Unitarian Church of Vancouver		
Jim Jordan, Chair, Defence of Canadian Liberty Committee		
Shane Koscielniak		
Damien McCombs, Student		
Doris McNab, Spokesperson, British Columbia Voice of Women		
Isabel Minty, CIVITAS, National Unity		
Albert Peeling, Lawyer, Defence of Canadian Liberty Committee		

Associations and Individuals	Meeting	Date
Amy Pullen		
Stan Robertshaw	120	Monday, April 26, 1999
Serge Robichaud		Vancouver, British Columbia
Lydia Sayle, Spokesperson, British Columbia Voice of Women		
Olga Schwartzkopf		
Douglas Seeley, Systems Specialist in supply chains for commodity export, Director Inter-Dynamics P/L		
Angela Wanczura, Spokesperson, Education and Training Employees Association and Local 99 of the College Institute Educators Association		
B.C. Council of Marketing Boards	121	Tuesday, April 27, 1999
Arne Mykle, Spokesperson, Chicken Marketing Board		Vancouver, British Columbia
John Woelders, Spokesperson, Broiler Hatching Egg Commission		
Dan Wiebe, Spokesperson, Turkey Marketing Board		
Tom Nash, Spokesperson, Milk Producers		
John Jansen, Spokesperson, Milk Marketing Board		
Business Council of British Columbia		
Gerry Lampert, President and Chief Executive Officer		
Jock Finlayson, Vice-President, Policy		
Canadian Association of Physicians for the Environment		
Peter Carter, Secretary		
Canadian Marine Environment Protection Society		
Annelise Sorg, Executive Director		
Cascadia Institute		
Mike Harcourt, Spokesperson		
Alan Artibise, Spokesperson		
Discovery Institute — Seattle		
Bruce Agnew, Spokesperson		
Jim Miller, Watcom County, Organizations of Governments		
Free Trade Lumber Council		
David Emerson, Co-Chair (President & CEO CANFOR)		
International Centre for Sustainable Cities		

Associations and Individuals	Meeting	Date
Nola-Kate Seymoar, Executive Director		
National Farmers Union	121	Tuesday, April 27, 1999
Cory Ollikka, President		Vancouver, British Columbia
Pacific Corridor Enterprise Council		
Peter Fraser, President		
David Andersson, Director, Immigration Ombudsman		
James Kohnke, Director and Chair Transportation Committee		
John Winter, Director (President BC Chamber of Commerce, IMTC Project)		
Pacific Music Industry Association		
Ellie O'Day, Executive Director		
Service—Growth Consultants Inc.		
Dorothy Riddle, President & CEO		
West Coast Environmental Law Association		
Steven Shrybman, Executive Director		
As Individuals		
Jezrah Hearne		
Wendy Holm, Professional Agrologist, Senior Consultant and Agricultural Economist		
Olive Johnson		
Ross Johnson, Political Economist		
John Lovett		
Sean O'Connell		
Gil Yaron, Citizen's Council on Corporate Issues		
Automotive Parts Manufacturers' Association	122	Tuesday, April 27, 1999
Gerry Fedchun, President		Toronto, Ontario
Canadian Council for the Americas		
Richard Baker, Director and Legal Council		
Bill Holt, Director, Board of Directors		
Canadian Courier Association		
Allan Kaufman, Vice-President, Legal and Public Affairs		
Canadian Labour Congress		
Robert White, President		
Andrew Jackson, Senior Economist, Social and Economic Policy		
Canadians Concerned About Violence in Entertainment		
Rose Dyson, Spokesperson		

Associations and Individuals	Meeting	Date
Common Frontiers	122	Tuesday, April 27, 1999
Patricia Barrera, Coordinator		Toronto, Ontario
John Dillon, Board Member and Research Co-ordinator for the Ecumenical Coalition for Economic Justice		
Concerned Citizens		
Stephen Kerr, Spokesperson		
Horizons of Friendship		
Rick Arnold, Executive Director		
Jim Orr, Deputy Reeve of Percy Township and Steering Committee of the Northumberland Community Small Business Investment Fund		
Inter-Church Committee for Human Rights in Latin America		
Suzanne Rumsey, Mexico, Central America Coordinator		
Chris Ferguson, Area Secretary, Latin America and Caribbean Division of World Outreach United Church of Canada		
Maquila Solidarity Network		
Bob Jeffcot, Spokesperson		
Mining Association of Canada		
Gordon Peeling, President and Chief Executive Officer		
Ted Yates, Chairman of the MAC Trade Committee and Director, Market Research Cominco Ltd.		
David Bumstead, Executive Vice-President		
Douglas Brown, Director, Economics and Pension Investments		
William Deeks, Chairman, Charles Tennant and Company, Member of the Mining Association of Canada		
National Action Committee on the Status of Women		
Joan Grant-Cummings, President		
National Union of Public and General Employees		
Larry Brown, National Secretary-Treasurer		
Bob Dale, Chief Economist		
Ontario Liquor Board Employees Union		
Heino Nielsen, Business Agent		
Gord Girard, Member		

Associations and Individuals	Meeting	Date
People Against the MAI	122	Tuesday, April 27, 1999
Jean Smith, Spokesperson		Toronto, Ontario
Stikeman, Elliot Avocats		
Francine Matte, Lawyer		
Lawson Hunter, Associate		
Randall Hofley, Associate		
United Steelworkers of America		
Hugh MacKenzie, Director of Research		
Lawrence McBrearty, Canadian National Director		
As Individuals		
Stephen Clarkson, Professor, Department of Political Science, University of Toronto		
Ann Emmett		
Shirley R. Farlinger, Toronto Branch of the UN Science for Peace		
John Kirton, Professor, Department of Political Science, University of Toronto		
Marion Odell		
Sylvia Ostry, Distinguished Research Fellow Centre for International Studies, University of Toronto		
Julie Soloway, Research Associate, Centre for International Studies, University of Toronto		
John Valleau, Professor, Chemical Physics Theory Group, University of Toronto		
World Federalists of Canada		
Simon Rosenblum, Director		
Alcan Aluminium Limited	123	Wednesday, April 28, 1999
Dan Gagnier, Vice-President of Environmental and Corporate Affairs		Toronto, Ontario
"Association des manufacturiers de bois de sciage du Québec"		
Jacques Robitaille, President and Director General		
Jean-Pierre Grenon, Vice-President, Supplies and Forestry		
Brenda Swick-Martin, Lawyer, Ogilvy Renault		
Association of Canadian Publishers		
Jack Stoddart, President & CEO Stoddart Publishing		

Associations and Individuals	Meeting	Date
AT&T Canada Enterprises Inc. Peter Barnes, Vice-President, Public Affairs Brian Kelly, Public Policy Consultant	123	Wednesday, April 28, 1999 Toronto, Ontario
Cahoots Theatre Projects Hamal Docter, General Manager		
Canadian Association of Broadcasters Michael McCabe, President & CEO Glenn O'Farrell, Vice-President Global Television		
Canadian Business Press Michael Atkins, Chair, Legislative Affairs Committee		
Canadian Chamber of Commerce Nancy Hughes Anthony, President and Chief Executive Officer Milos Barutciski, Partner, Davies, Ward & Beck Vice-Chair of the CCIB Trade Policy Committee		
Canadian Council for International Business Eric Iankelevic, Senior Policy Consultant David Hecnar, Director, International Policy Canadian Chamber of Commerce		
Canadian Drug Manufacturers Association Jim Keon, President Michael Weingarten, Vice-President, Sales and Marketing for Apotex International Inc. Ed Hore, Hazzard and Hore		
Canadian Environmental Law Association Michelle Swenarchuk, Director, International Programmes		
Canadian Independent Record Production Association Brian Chater, President Alexander Mair, President, Attic Records Chair, Government Affairs Committee		
Canadian Magazine Publishers Association John Thomson, CEO, Canadian Geographic Society and Publisher, Canadian Geographic Magazine		
Canadian Publishers Council Claude Primeau, President & CEO Harper-Collins Canada Ltd. Jacqueline Hushion, Executive Director		

Associations and Individuals	Meeting	Date
Canadian Restaurant and Food Services Association Jean-Pierre Leger, President & CEO, "Les Rôtisseries St-Hubert Ltd." Kathleen Sullivan, Director	123	Wednesday, April 28, 1999 Toronto, Ontario
Canadian Sugar Institute Sandra Marsden, President Andrew Ferrier, President, Redpath Sugars		
Canadian Turkey Marketing Agency Phil Boyd, Executive Director Richard Ruchkall, Vice-Chairman		
Centre for Equality Rights in Accommodation Bruce Porter, Executive Director		
Chicken Farmers of Canada Mike Dungate, General Manager		
Council of Canadians Catherine Goulet, Southern Ontario Representative		
IBM (Canada) Shirley-Ann George, Government Programs Executive		
Low Income Families Together Josephine Grey, Executive Director		
McCarthy Tétreault, Barristers and Solicitors Peter Grant, Senior Partner		
Sierra Club of Canada Christine Elwell, Senior Policy Analyst		
Stelco Inc. Donald Belch, Director, Government Relations		
Supply Management Commodity of Ontario John Core, Chair, Dairy Farmers of Ontario on behalf of SM5-Ontario Cor Kapteyn, Vice-Chair, Ontario Broiler Hatching Egg and Chick Commission Mike Scheuring, Chair, Chicken Farmers of Ontario Henry Koop, Chair, Ontario Egg Producers' Marketing Board		
WIC Premium Television Grant Buchanan, Vice-President, Corporate Affairs		

Associations and Individuals	Meeting	Date
As Individuals Don Jennison Don Johnston	123	Wednesday, April 28, 1999 Toronto, Ontario
Alberta Forest Products Association Gary Leithead, Spokesperson	124	Wednesday, April 28, 1999 Edmonton, Alberta
Alberta Friends of Medicare Society Elizabeth Reid, Chair Bill Blanchard		
Alternatives North John Murray, Member (Yellowknife)		
BC•TELUS Willie Grieve, Vice-President, Regulatory Service John Makaryshyn, Government and Community Affairs		
Canadian Dehydrators Association Garry Benoit, Executive Director		
Economic Development Edmonton Shawna Vogel, Member, Board of Directors Jim Edwards		
Edmonton Friends of the North Environment Society (EFONES) David Parker, Spokesperson		
National Farmers Union Jan Slomp, District Director George Calvin, District Director		
New Democratic Party of Alberta Raj Pannu, MLA — Trade Critic		
As Individuals E.J. Chambers, Director, Western Centre for Economic Research Rolf Mirus, Professor, Director, Centre for International Business, University of Alberta Elizabeth Smythe, Concordia University College of Alberta		
Agri-Industry Trade Group Dale Riddell, Co-Chair	125	Thursday, April 29, 1999 Calgary, Alberta
Alberta Barley Commission Glenn Logan, Chairman Brian Kriz, Past Chairman Clif Foster, General Manager		

Associations and Individuals	Meeting	Date
Alberta Economic Development Authority Peter Watson, Chairman, Export Trade Committee	125	Thursday, April 29, 1999 Calgary, Alberta
Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) Brian Gromoff, National President Gary Neil, Policy Advisor		
National Farmers Union Michelle Melnyk, Youth President		
Poultry & Dairy Industries of Alberta Don Sundgaard, Vice-Chair, Chicken Producers Bruce Beattie, Spokesperson, Milk Producers Tony Wooldridge, Chair, Egg Producers Dale Enarson, Chair, Turkey Producers Tina Notenbomer, Director, Hatching Egg Producers		
Western Canadian Wheat Growers Association Ted Menzies, Vice-President		
As Individuals Eugene Beaulieu, Department of Economics University of Calgary Stephen Randall, Dean of Social Sciences University of Calgary Dixon Thompson, Professor of Environment Science, Faculty of Environment Design Ekos 707, University of Calgary		
Catholic Rural Life Conference, Diocese of London Sue Langlois, Member, National Farmers Union	126	Thursday, April 29, 1999 London, Ontario
Food and Consumer Products Manufacturers of Canada (Toronto) Laurie Curry, Vice-President, Public Policy and Scientific Affairs Christine Lowry, Vice-President, Nutrition & Corporate Affairs, Kellogg Canada Inc.		
Greenpeace Randy Pedersen, London Branch		
Guelph Chapter of the Council of Canadians Dennis Gaumond, Vice-President Robert Barron, Member, Broadcaster CFRU 93.3FM David Thomas, Member-at-large		

Associations and Individuals	Meeting	Date
London and District Labour Council Gil Warren, Co-Chair, Political Action Committee Bob Sexsmith, Member	126	Thursday, April 29, 1999 London, Ontario
London Coalition for Fair Trade Maria Hatzipantelis, Spokesperson		
Ontario Corn Producers' Association Dennis Jack, First Vice-President Terry Daynard, Executive Vice-President		
Ontario Soybean Growers' Marketing Board Fred Brandenburg, Secretary-Manager Liam McCreery, Vice-Chairman		
Ontario Wheat Board William McClounie, General Manager Jim Whitelaw, Marketing Manager		
OXFAM Canada (London Branch) Cecily Nicholson, Spokesperson Bernie Hammond, Member		
Scotiabank Timothy Plumptre, Senior Vice-President, Trade Finance and Correspondent Banking		
As Individuals Jim Anderson, Service Employees International Union, Section 220 Al Kuhn		
Canadian Auto Workers (Local 444) Environment Committee Rob Spring, Chairperson	127	Friday, April 30, 1999 Windsor, Ontario
CAW Windsor Regional Environment Council Ken Bondy, President Charles Bake, Financial Secretary		
Citizens Environment Alliance—Green Planet Social Justice and Ecology Network Rick Coronado, Research and Communications Coordinator		
Ecumenical Coalition for Economic Justice of Wallaceburg Anne Bezaire, Spokesperson		
MAI-Day Coalition for Human Rights Vito Signorile, Spokesperson Renzo Zanchetta, Spokesperson, National Farmers Union		

Associations and Individuals	Meeting	Date
National Farmers Union Perry Pearce, Member	127	Friday, April 30, 1999 Windsor, Ontario
Windsor — Essex County Development Commission Paul Bondy, Development Commissioner Elaine Prior, Manager, Administration		
Windsor and Area Social Justice Coalition Anne Beer, Spokesperson		
Windsor and District Labour Council Peter Pellerito, Chairperson, Political Education Committee Gary Parent, President		
Windsor Council of Canadians Douglas Hayes, Chairman		
As Individuals Mansfield Mathias Carol Monk Christopher Sands, Director and Fellow, Canada Project Coordinator, American Auto Project Americas Program, Center for Strategic and International Studies		
Canadian Union of Public Employees Malcolm Matheson, Spokesperson	128	Friday, April 30, 1999 Saskatoon, Saskatchewan
Saskatchewan Council for International Cooperation John Derbowka, Board Member		
Saskatchewan Federation of Labour Don Anderson, Executive Assistant		
Saskatchewan Health Coalition Warren Peterson, Spokesperson		
Saskatchewan Wheat Pool Marvin Shauf, Vice-President Jonathan Grevel, Research Economist		
Saskatchewan Women Agricultural Network (SWAN) Noreen Johns, Executive Secretary		
As Individuals William Adamson Michelle Beveridge, OXFAM John and Betsy Bury		

Associations and Individuals	Meeting	Date
John Foster, Ariel F. Sallow, Professor for Human Rights, University of Saskatchewan David Greenfield Jim Handy, President, CALACS, University of Saskatchewan Merv Harrison, Multi Faith Social Justice Tony Haynes, Roman Catholic Diocese of Saskatoon Don Irvine Jeanette Liberty-Duns, Saskatoon Presbytery of the United Church John McConnell, BSA MA Pag Linda Murphy, Ploughshares & ICUCEC (InterChurch Uranium Committee Educational Cooperative) Garth Nelson, Nature Saskatchewan Jan Norris Roger Petry, Saskatchewan Synod of Evangelical Lutheran Church Peter Phillips, Van Vliet Chair, Professor, Faculty of Agricultural Economics Tim Quigley, Council of Canadians Neil Sinclair, Leader, New Green Alliance Asit Sarkar, Director, University of Saskatchewan, International and Special Advisor to the President Carolyn Taylor, Saskatchewan Environmental Society	128	Friday, April 30, 1999 Saskatoon, Saskatchewan
Department of Foreign Affairs and International Trade John Weekes, Ambassador of Canada to the World Trade Organization	133	Tuesday, May 11, 1999
As Individuals Pierre Sauvé, Fellow, Harvard Kennedy School and a non-resident fellow at the Brookings Institution Jeffrey Schott, Senior Fellow, Institute for International Economics, Washington D.C.	135	Wednesday, May 12, 1999
Department of Foreign Affairs and International Trade Jean-Pierre Juneau, Ambassador of Canada to the European Union	136	Thursday, May 13, 1999